

PLANS AND SPECIFICATIONS  
FOR

**COYOTE CREEK PILOT CHANNEL  
(STRUCTURE DEMOLITION)**

SPECIFICATION NO.      WP25-15  
PROJECT NO.              81176



**county of ventura**  
WATERSHED PROTECTION DISTRICT  
ZONE 1

# COUNTY OF VENTURA PUBLIC WORKS AGENCY

## NOTICE INVITING BIDS, PROJECT INFORMATION FORM, & SPECIFICATIONS

FOR

PROJECT NAME: COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION)

LOCATION: 575 Casitas Vista Road, Ventura, CA

SPEC. NO.: WP25-15

COST ACCOUNTING PROJECT NO.: P6081176

DESIGNED BY:



Emmanuel Ayala

CHECKED BY:



Matthew Ehret

REVIEWED BY:



Salvador Diaz-Rubin, PE

PROJECT MANAGER:





RECOMMENDED BY:



Matthew Ehret

Deputy Director, Watershed Protection District

APPROVED BY:



Jeff Palmer

Director, Watershed Protection District

APPROVED BY:



Gregg Strakaluse

Director, Public Works Agency

Construction bidding documents, including plans, specifications, addenda and any supplementary documents are only available on the Ventura County Public Works Agency Web Site.

# **NOTICE TO BIDDERS, SUBCONTRACTORS AND SUPPLIERS** **SOURCES OF INFORMATION**

## **DURING BIDDING PERIOD**

PROJECT DOCUMENTS, PLAN HOLDERS LIST, & OTHER INFORMATION IS AVAILABLE  
ON THE INTERNET AT THE BONFIRE WEBSITE AT:

<https://ventura.bonfirehub.com/portal/?tab=openOpportunities#department=Public%20Works%20Agency>

All questions concerning the plans, specifications, requirements, terms, schedule, addenda, and any other matters related to the solicitations shall be submitted using the Bonfire web site using the "Opportunity Q&A" tab.

Submit any questions early in the bidding period as an addendum may be required.

All addenda will be issued using the Bonfire web site.

**Please do not call other staff members or consultant.**

Note that our consultants are directed to refer all calls to the Project Managers.

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## **AFTER BID OPENING**

BID RESULTS are available on <https://www.vcpbublicworks.org/es/bidsandsubs/>,

## **AFTER AWARD OF CONTRACT**

ALL QUESTIONS concerning project AFTER AWARD should be directed to the  
Project Manager named in the Notice of Award

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Any other information can be requested at (805) 654-2039

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# VENTURA COUNTY WATERSHED PROTECTION DISTRICT

## NOTICE INVITING FORMAL BIDS

Bids will be received, electronically, until **2:00 p.m.** on **04/29/2025**, for **COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION)**, Specification No. WP25-15, which consists of clearing and grubbing of all existing vegetation within the temporary work area limits for approximately 300 (LF), abatement, demolition of two houses and other structures including but not limited to swimming pool, septic tank, leach lines, and disposal of sites hazardous materials.

Bids must be submitted on-line through Bonfire at:

<https://ventura.bonfirehub.com/portal/?tab=openOpportunities#department=Public%20Works%20Agency>

After the deadline for receiving bids, the bids will be opened, and the results made public.

The estimated cost of construction is **\$200,000.00**.

All bidding documents, including plans, specifications, addenda, and any supplementary documents are available on the Bonfire website shown above.

A list of Plan Holders is available on the Bonfire website shown above.

An abstract of bids received will be available at <https://www.vcpublishworks.org/es/bidsandsubs/>

When projects are awarded, the award notification to the State will be posted at <https://www.vcpublishworks.org/es/awardedcontracts/>

Bids must be submitted electronically, using the forms provided, on the Bonfire Website.

Subcontractor list must include a valid Contractor's License Number. Contractor and any subcontractors must be registered with the Department of Industrial Relations prior to bid time.

Each bid must be accompanied by a bid guarantee in the amount of not less than 10% of the amount bid, **PAYABLE TO THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT** and guaranteeing that the bidder will enter into a contract in accordance with the terms of the bidding documents, if award is made. The bid guarantee shall be in one of the following forms: a bid bond written by an admitted surety insurer on the form included with the Proposal form, a cashier's check drawn by a national bank, a check certified by a national bank or cash. Bid bonds must be submitted in hard copy with the original signatures of the principal and surety. Copies of the completed bond will not be accepted.

Bidders must have a Class **A** California Contractors license. Upon award, the Contractor will be required to furnish a Performance Bond and a Payment Bond, each in the amount of 100% of the contract price.

In accordance with Section 22300 of the Public Contract Code, securities may be substituted for funds withheld.

Bidders, contractors, and other interested parties can obtain wage rates pertaining to Ventura County projects at the link provided below.

California general prevailing wage rates for construction can be obtained from the following Web site: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

The awarded contractor must post copies of the prevailing wage determinations at each job site.

# **PROJECT INFORMATION**

**FOR**

## **COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION)**

**LOCATED IN  
VENTURA COUNTY, CALIFORNIA**

**MAKE BID GUARANTEE TO VENTURA COUNTY WATERSHED PROTECTION DISTRICT  
USE FORM PROVIDED (SEE PARAGRAPH 9, INSTRUCTION TO BIDDERS).**

**SPECIFICATION NO. WP25-15 INCLUDING 2 SHEETS OF PLANS**

**BIDS WILL BE RECEIVED ELECTRONICALLY UNTIL APRIL 29, 2025 AT 2:00 P.M.**

**AGENCY IS ALLOWED 60 DAYS TO AWARD A CONTRACT (SEE SECTION 1-7.3).**

**THE STARTING DATE OF CONTRACT WILL BE 28 CALENDAR DAYS AFTER AWARD OF  
CONTRACT (SEE SECTION 6-3.2.1).**

**COMPLETION TIME IS 30 WORKING DAYS (SEE SECTION 6-3).**

**LIQUIDATED DAMAGES ARE \$2,500 PER CALENDAR DAY (SEE SECTION 6-9).**

**CONTRACTOR'S LICENSE CLASSIFICATION REQUIRED IS CLASS A.**

**LIABILITY INSURANCE CLASS REQUIRED PER SECTION 5-4.2.2 IS L-B.**

**NON-MANDATORY PREBID MEETING: 9:00 am on APRIL 15, 2025, at 575 Casitas  
Vista Road, Ventura CA 93001-9766 (drive on 33 HWY heading North towards Ojai, get  
off on Casitas Vista Road and head north, stay on Casitas Vista Rd past Santa Ana  
Road to 575 Casitas Vista Road on the right side of the road)**

## **INSTRUCTION TO BIDDERS**

1. **LICENSING OF BIDDER.** Before contract will be awarded, bidders shall be licensed in accordance with the provisions of Sections 7000 through 7145 of the Business and Professions Code of the State of California in the classification required for the work bid on. The bidder's license number, classification, and expiration date shall be inserted on Signature Sheet. The bidder's name shall correspond in all respects with the name shown on the license. License numbers and names are checked with the State.

2. **SITE INSPECTION.** Personally visit the worksite before submitting your bid to ascertain the existence of any surface or subsurface conditions affecting the cost of the work.

3. **INTERPRETATION AND QUESTIONS.** Carefully review the plans and specifications for any errors, omissions, or ambiguities. If you discover any or have specific questions, notify the Agency far enough in advance of the bid opening to allow time for the issuance of appropriate written addenda, if necessary. All questions concerning the plans, specifications, requirements, terms, schedule, addenda, and any other matters related to the solicitation shall be submitted through the Bonfire website using the "Opportunity Q&A" tab.

Written addenda shall be the sole means for modifying the plans and/or specifications prior to the bid opening. The Agency shall not be bound by oral communications purportedly modifying or interpreting the plans and/or specifications regardless of when or by whom such oral communications are made and you should not rely upon such oral communications in preparing your bid. Addenda will be posted on the Bonfire web site.

4. **BID ITEMS.** State in figures the unit prices, lump sum prices and extensions as indicated which shall be the prices for which you propose to supply all materials and services and perform all work required by the plans and specifications. All items described are to be construed as complete and in place. Include in the bid amount for items listed in the Bid Table the cost of performing all work shown on the plans or required by the specifications for which a specific bid item is not provided. Bid on all items listed under Schedule of Work and Prices unless otherwise indicated in the Bid Table.

5. **SIGNING OF BID.** Fill in all indicated blanks on the various forms provided. Bids will only be accepted if submitted electronically using the Bonfire website. Bids signed by an agent other than an owner, partner or corporate officer shall be accompanied by a power-of-attorney.

6. **NON-COLLUSION AFFIDAVIT.** The non-collusion affidavit required for federally funded projects is included as a required document on the Bonfire website.

7. **BID FORM NOT TO BE ALTERED.** Do not change the wording of the Bid documents. Any additions, deletions, conditions, limitations or provisions by the bidder will render the Bid irregular and may cause its rejection.

8. **CORRECTING BID.** Corrections or adjustments to bids must be done using the Bonfire website and must be completed prior to the Bid Closure date and time.

9. **BID GUARANTEE.** A Bid Guarantee in the amount of not less than 10% of the amount bid and guaranteeing that the bidder will enter into a contract in accordance with the terms of the bidding documents if award is made to him must be submitted. The bid guarantee shall be in one of the following forms: A bid bond written by an admitted surety insurer on the form provided, a cashier's check drawn by a national bank, a check certified by a national bank or cash.

Original hard copies of the Bid Guarantee must be submitted and received by the County prior to the Time of Bid Closure. Bid Guarantee shall be mailed or delivered to:

Public Works Agency, County of Ventura  
Public Counter - 3rd Floor  
Hall of Administration  
800 South Victoria Ave.  
Ventura, California 93009-1670.

For proper handling, mark the envelope as "BID GUARANTEE – SEALED BID" and show the specification number, project title, and the Bidder's name and address.

The bid bond must have the original wet notarized signatures of the principal and surety and include Power of Attorney for the Agent signing for the Surety.

Note: Performance and Payment Bonds are required from the bidder to whom a contract is awarded. See specifications Subsection 1-7.2 for contract bond requirements including limitations on the sureties that may issue the bonds.

10. **SUBMITTING BID.** Submit your bid using the Bonfire website at:

[www.ventura.bonfirehub.com](http://www.ventura.bonfirehub.com)

Only bids submitted via the Bonfire website will be considered. All documentation listed as required on that website must be completed and submitted.

11. **TIME OF BID CLOSURE.** The time and date of the Bid closure is indicated on the Bonfire website solicitation as "Close Date". No bids will be accepted after that time.

12. **REVISION OR WITHDRAWAL OF BID.** Bids submitted using the Bonfire website can only be revised or withdrawn using the website. Once submitted, a bid that requires revisions or withdrawal must be accessed via the "Completed" tab under the "Your Submissions" section and action taken to revise or "unsubmit" (withdraw).

13. **ERRORS.** Bidder will not be released on account of errors. Bids submitted using the Bonfire website will be considered final. Bidders shall be careful to ensure all information that is submitted is complete and accurate.

14. **SUBCONTRACTOR LICENSE NUMBERS.** License numbers for subcontractors must be provided at the time the bid is received using the forms provided.

15. **PUBLIC WORKS CONTRACTOR REGISTRATION PROGRAM.** No contractor or subcontractor may be listed on a bid for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5

16. **LABOR COMPLIANCE MONITORING.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Prime Contractor shall post job site notices prescribed by regulation.

(See Chapter 8, California Code Regulation section 16451(d) for notice that previously was required for projects monitored by the Compliance Monitoring Unit.)

## Printed Name of Officer:

## **LIST OF SUBCONTRACTORS**

**CONTRACTOR NAME:** \_\_\_\_\_

Listing shall comply with the provisions of California Public Contract Code, Section 4104.

<b>Name of Subcontractor</b>	<b>Contractor's License Number</b>	<b>Contractor's DIR Registration Number</b>	<b>Business Address</b>	<b>Items of Work</b>

If more space is needed, add additional pages.

Public Contract Code Section 4104 provides that bidders must list:

- (a)(1) The name, the location of the place of business, and the California contractor license number of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.
- (b) The portion of the work that will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid.

**BID TABLE**Schedule of work and prices for: **COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION)**

Item No.	Units	Approx. Quantity	Item Description	Payment Reference	Unit-Prices (In Figures)	Item Total (In Figures)
1	LS	1.00	Mobilization	7-3.4.2		
2	LS	1.00	Clearing and Grubbing	1001-3		
3	LS	1.00	Traffic Control	1002-5		
4	LS	1.00	Abatement and Disposal of Site's Hazardous Materials	1003-3		
5	LS	1.00	Demolition and Removal of Structures and Debris	1004-3		
6	LS	1.00	Excavation Safety	1005-2		
			<b>Total Amount Bid</b>			

Bid Table is shown here for informational purposes.

Bid Table shall be filled out by Bidders using the Bonfire website. Bidders will access the Schedule of Work and Prices on the Bonfire website and input their Unit Prices.

## **SIGNATURE SHEET**

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

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: (\_\_\_\_)\_\_\_\_-\_\_\_\_\_

Email Address: \_\_\_\_\_

I make this proposal and certify or declare under penalty of perjury under the laws of the State of California that:

- The statements and attestations made and associated with this Proposal, and below my signature, are true and correct.
- The bidder has read the Bid documents and has abided by and agrees to the conditions herein and has carefully examined the project plans and read the specifications and does hereby propose to furnish all materials and do all the work required to complete the work in accordance with the plans and specifications for the unit prices or lump sums named in the Bid Table.
- The bidder, as Principal, acknowledges himself as being bound by the attached bond or other acceptable bid guarantee.

Dated: \_\_\_\_\_ At: \_\_\_\_\_  
(City and State)

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

Printed Name: \_\_\_\_\_

Position: \_\_\_\_\_  
(Sole Owner, Partner, President, etc.)

Company Name: \_\_\_\_\_ Type of Organization: \_\_\_\_\_  
(Individual, Partnership, Corp.)

License No.: \_\_\_\_\_ License Classification: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

DIR Registration Number: \_\_\_\_\_

**BID BOND**

Enter            }  
 Name &        }  
 Address       }  
 of Bonding   }  
 Company      }

KNOW ALL MEN BY THESE PRESENTS: That we \_\_\_\_\_

\_\_\_\_\_, Principal,

and \_\_\_\_\_

\_\_\_\_\_, Surety, are held and firmly bound  
 unto

**VENTURA COUNTY WATERSHED PROTECTION DISTRICT** Obligee,  
 in the sum of Ten Percent of the total amount of the Bid for the payment of which we bind ourselves,  
 our legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a bid or proposal to Obligee on a contract for  
**COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION)**

NOW, THEREFORE, if that contract be awarded to principal and principal shall, within such time as specified, duly execute the contract in the prescribed form and deliver the same to obligee with all required bonds/performance securities, certificates of insurance and such other items as required in the bidding or contract documents then this obligation shall be null and void; otherwise to remain in full force and effect, and if the contract is awarded to principal and principal fails, within the time specified, to duly execute the contract in the prescribed form and deliver the same to obligee with all said required items, then surety shall pay obligee the full sum of this bond.

Surety, for value received, hereby agrees that no extension of time, change, alteration, modification, or addition to the bidding or contract documents, or of the work required thereunder, shall release or exonerate surety on this bond or in any way affect the obligation of this bond; and surety does hereby waive notice of same.

Signed, sealed and dated

\_\_\_\_\_  
 (Principal)

by \_\_\_\_\_ (Seal)

\_\_\_\_\_  
 (Surety)

by \_\_\_\_\_  
 Attorney-in-Fact

**INDICATE COMPLETE ADDRESS OF SURETY TO WHICH  
 CORRESPONDENCE CONCERNING THIS BOND SHOULD BE  
 DIRECTED.**

Telephone No. \_\_\_\_\_



# PREVAILING RATES OF WAGES

**COUNTY OF VENTURA  
PUBLIC WORKS AGENCY**

**PREVAILING RATES OF WAGES**

As provided in Subsection 7-2.2 of these specifications, and in accordance with Section 1770 (*Amended by Stats. 2017, Ch. 28, Sec. 17. (SB 96) Effective June 27, 2017*), et. seq. of the California Labor Code, determinations of the generally prevailing wages for various classes of workers in Ventura County have been made by the California Director of Industrial Relations as required by the California Labor Code.

As required by California Labor Code Section 1777.5, properly indentured apprentices shall be employed on the work in the minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification. Travel and subsistence shall be paid in accordance with California Labor Code Section 1773.8.

The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

The determinations made by the State are available on the Internet at

<http://www.dir.ca.gov/DLSR/PWD/Index.htm>

and are on file in the office of the Public Works Agency

The rate fixed for each craft, classification, or type of work shall be not less than the prevailing rate paid in the craft, classification, or type of work.

The Contractor shall post a copy of the wage rates at each jobsite at a location readily available to the workers.



# EXCERPTS FROM THE CALIFORNIA LABOR CODE

## **Excerpts from the California Labor Code**

**These excerpts from the Labor Code include the sections listed in specification Section 7.2.2.2 that are required by Labor Code 1775(b)(1) to be included in all subcontracts. These excerpts also include sections recommended by the CA Department of Industrial Relations that contain information on the contractor registration requirements. These sections are furnished for the convenience of the contractor and in no way limit the required compliance with all laws.**

**1725.5.** A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h) (1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j) (1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at the address on file with either of the following:

(i) The Contractors' State License Board.

(ii) The Secretary of State.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

*(Amended by Stats. 2018, Ch. 455, Sec. 2. (SB 877) Effective September 17, 2018.)*

**1775.** (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections **1771, 1776, 1777.5, 1813, and 1815**.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

*(Amended by Stats. 2011, Ch. 677, Sec. 1. (AB 551) Effective January 1, 2012.)*

**1776** (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(C) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply, subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section. *(Amended by Stats. 2014, Ch. 28, Sec. 71. (SB 854) Effective June 20, 2014.)*

**1777.5.** (a) (1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.

(2) For purposes of this chapter, "apprenticeship program" means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) (A) At the conclusion of the 2002–03 fiscal year, and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director. *(Amended by Stats. 2018, Ch. 704, Sec. 17. (AB 235) Effective September 22, 2018.)*

**1813.** The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

*(Amended (as added by Stats. 1997, Ch. 757, Sec. 6) by Stats. 2002, Ch. 28, Sec. 3. Effective January 1, 2003.)*

**1815.** Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1<sup>1</sup>/<sub>2</sub> times the basic rate of pay.

*(Amended by Stats. 1963, Ch. 964.)*



EXCERPTS FROM  
PCC 9204  
JANUARY 1, 2017

## **EXCERPTS FROM PUBLIC CONTRACT CODE 9204**

**EFFECTIVE DATE JANUARY 1, 2017**

Please note section 9204 of the Public Contract Code, set forth in full below. Contractor must follow the contractual dispute resolution process specified in the Ventura County Standard Specifications, which is consistent with section 9204.

\* \* \*

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)(1)(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public

entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a

public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2027, deletes or extends that date.



# VENTURA COUNTY STANDARD SPECIFICATIONS

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**COUNTY OF VENTURA  
PUBLIC WORKS AGENCY  
STANDARD SPECIFICATIONS**

**PART 1 - GENERAL PROVISIONS**

**SECTION 0 - SPWC ADOPTION AND MODIFICATIONS**

**0-1 STANDARD SPECIFICATIONS.**

Except as hereinafter provided or as modified by the Special Provisions, the provisions of Parts 2 through 8 of the 2018 edition of the Standard Specifications for Public Works Construction (referred to as SSPWC), published by BNi Building News, Los Angeles, are part of these Standard Specifications.

**0-2 DELETIONS.**

The following portions of SSPWC are hereby deleted: Part 1

**0-3 NUMBERING OF SECTIONS.**

The numbering in these modifications is compatible with the numbering in SSPWC. Standard Special Provisions, if included, are numbered as Sections 901 through 999. The Special Provisions are numbered starting with Section 1000 or higher.

Cross-references contained in SSPWC to sections deleted by 0-2 hereof shall be references to the sections of like number contained herein.

**0-4 ADDITIONS.**

The sections that follow either replace sections of like number in SSPWC which were deleted in 0-2 above, modify sections of SSPWC, or add material not in SSPWC.

## **SECTION 1 - GENERAL, TERMS, DEFINITIONS, ABBREVIATIONS, UNITS OF MEASURE AND SYMBOLS**

### **1-1 GENERAL.**

Unless otherwise stated, the words directed, required, permitted, ordered, instructed, designated, considered necessary, prescribed, approved, acceptable, satisfactory, or words of like meaning, refer to actions, expressions, and prerogatives of the Engineer.

### **1-2 TERMS AND DEFINITIONS.**

Acceptance--The formal written acceptance by the Agency of the Work which has been completed in all respects in accordance with the Plans and Specifications and any Modifications thereof. Acceptance by the Agency will occur when the Engineer signs the Notice of Completion.

Addendum--Written or graphic instrument issued prior to the opening of Bids which clarifies, corrects or changes the bidding or Contract Documents. The term "Addendum" shall include bulletins and all other types of written notices issued to potential bidders prior to opening of Bids.

Agency--The legal entity for which the Work is being performed.

Agreement--See Contract.

Assessment Act Contract – A Contract financed by special assessments authorized under a State Act or procedural ordinance of a City or County.

Base--A layer of specified material of planned thickness placed immediately below the pavement or surfacing.

Bid--The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work.

Bidder--Any individual, firm, partnership, corporation, or combination thereof, submitting a Bid for the Work, acting directly or through a duly authorized representative.

Board--The officer or body constituting the awarding authority of the Agency.

Bond--Bid, performance and payment bond or other instrument of security.

Caltrans--The State of California Department of Transportation

Cash Contract--A contract financed by means other than special assessments.

Certificate of Compliance--A written document signed and submitted by a supplier or manufacturer that certifies that the material or assembled material supplied to the Work site conforms to the requirements of the Contract Documents.

Change Order--A written order to the Contractor signed by the Agency directing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract time issued after the effective date of the Contract. A Change Order may or may not also be signed by the Contractor.

Code--The terms Government Code, Labor Code, etc. refer to codes of the State of California.

Consultant--A professional engineer, architect, landscape architect or other professional who designed the project or performed other services for the Agency on the project.

Contract--The written agreement between the Agency and the Contractor covering the Work.

Contract Documents--The Contract, Addenda, notice inviting bids, instruction to bidders; Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Contract, the Bonds, permits from jurisdictional regulatory agencies, Special Provisions, Plans, Standard Plans,

Standard Specifications, Reference Specifications, Change Orders and Supplemental Agreements.

Contractor--The individual, partnership, corporation, joint venture, or other legal entity having a Contract with the Agency to perform the Work. In the case of work being done under permit issued by the Agency, the Permittee shall be construed to be the Contractor. The term "prime contractor" shall mean Contractor.

Contract Price--The total amount of money for which the Contract is awarded.

Contract Unit Price--The amount shown in the Bid for a single unit of an item of work.

County Sealer--The Sealer of Weights and Measures of the county in which the Contract is let.

Days--Days shall mean consecutive calendar days unless otherwise specified.

Daily Extra Work Reports--Reports on Agency furnished forms as required by 7-4.4.

Disputed Work--Work in which Agency and Contractor are in disagreement.

Due Notice--A written notification, given in due time, of a proposed action where such notification is required by the Contract to be given a specified interval of time (usually 48 hours or two Working Days) prior to the commencement of the contemplated action. Notification may be from Engineer to Contractor or from Contractor to Engineer.

Electrolier--Street light assembly complete, including foundation, standard, luminaire arm, luminaire, etc.

Extra Work--New or unforeseen work not covered by a Contract Unit Price or Stipulated Unit Price.

Engineer--The Director of Public Works Agency acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

Field Directive--A written communication from the Engineer to the Contractor that does not make any Modification to the Contract Documents. It is used only to answer Contractor's questions and to provide decisions as specified in the Contract Documents.

Geotextile--Synthetic fiber used in civil engineering applications, serving the primary function of separation and filtration.

House Connection Sewer--A sewer, within a public street or right of way, proposed to connect any parcel, lot, or part of a lot with a main line sewer.

House Sewer--A sewer, wholly within private property, proposed to connect any building to a house connection sewer.

Luminaire--The lamp housing including the optical and socket assemblies (and ballast if so specified).

Major Bid Item--A single Contract item constituting 10% or more of the original Contract Price.

Mast Arm--The structural member or bracket, which, when mounted on a Standard, supports the luminaire.

Modification--Includes Change Orders and Supplemental Agreements. A Modification may only be issued after the effective date of the Contract.

Notice of Award--The written notice by the Agency to the successful Bidder stating that upon compliance by it with the required conditions, the Agency will execute the Contract.

Notice to Proceed--A written notice given by the Agency to the Contractor fixing the date on which the Contract time will start.

Operation, Maintenance, and Warranty Instructions-- Documents published by manufacturers of pre-manufactured products describing operation, maintenance and any other actions that must be performed by the Agency as a condition for the manufacturer to honor the specified warranty.

Owner--Same meaning as Agency.

Person--Any individual, firm, association, partnership, corporation, trust, joint venture, or other legal entity.

Plans--The drawings, profiles, cross sections, Standard Plans, working drawings, shop drawings, and supplemental drawings, or reproductions thereof, approved by the Engineer, which show the location, character, dimensions, or details of the Work.

Private Contract--Work subject to Agency inspection, control, and approval, involving private funds, not administered by the Agency.

Proposal--See Bid.

Reference Specifications--The latest edition, including amendments, in effect as of the date of advertisement of the Contract or issuing the permit, unless otherwise specified, of:

- a. bulletins,
- b. standards,
- c. rules,
- d. methods of analysis or testing,
- e. codes,
- f. specifications of other agencies, engineering societies, or industrial associations referred to in the Contract Documents.

Roadway--The portion of a street reserved for vehicular use.

Service Connection--All or any portion of the conduit cable or duct including meter, between a utility distribution line and an individual consumer.

Service Lateral Connection--The interface of the House Connection Sewer with the host pipe.

Sewer--Any conduit intended for the reception and transfer of sewage and fluid industrial waste.

Shop Drawings--Drawings showing details of manufactured or assembled products proposed to be incorporated in the Work.

Special Provisions--Any provisions which supplement or modify the Standard Specifications.

Specifications--Standard Specifications, Reference Specifications, Standard Special Provisions, Special Provisions, and specifications in Change Orders or Supplemental Agreements between the Contractor and the Board.

Standard--The shaft or pole used to support street lighting luminaire, traffic signal heads, mast arms, etc.

Standard Plans--Details of standard structures, devices, or instructions referred to on the Plans or in the Specifications by title or number.

Standard Specifications--Parts 1 through 8 of this document. See Section 0. References to whole sections will be preceded by the word "Section", references to parts of sections will show numbers only, such as "3-2", except at the beginning of a sentence, the word "Section" precedes the number.

State--The State of California.

State Standard Plans--Standard Plans prepared by State of California, Business and Transportation Agency, Department of Transportation.

Stipulated Unit Price--Unit prices established by Agency in the Contract Documents.

Storm Drain--Any conduit and appurtenances intended for the reception and transfer of storm water.

Street--Any road, highway, parkway, freeway, alley, walk or way.

Subbase--A layer of specified material of planned thickness between a base and the subgrade.

Subcontractor--An individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work.

Subgrade--For roadways, that portion of the roadbed on which pavement, surfacing, base, subbase, or a layer of other material is placed. For structures, the soil prepared to support a structure.

Supervision—Supervision, where used to indicate supervision by the Engineer, shall mean the performance of obligations, and the exercise of rights, specifically imposed upon and granted to the Agency in becoming a party to the Contract. Except as specifically stated herein, supervision by the Agency shall not mean active and direct superintendence of details of the Work.

Supplemental Agreement--A written amendment of the Contract Documents signed by both parties.

Surety--Any individual, firm, or corporation, bound with and for the Contractor for the acceptable performance, execution, and completion of the Work, and for the satisfaction of all obligations incurred.

Utility--Tracks, overhead or underground wires, pipelines, conduits, ducts, or structures, sewers or storm drains owned, operated or maintained in or across a public right of way or private easement.

Work--That which is proposed to be constructed or done under the Contract or permit, including the furnishing of all labor, materials, equipment, and services.

Working Day--See 6-3.2.3 and 6-3.2.3.1.

Working Drawings--Drawings showing details not shown on the Plans which are required to designed by the Contractor.

## 1-3 ABBREVIATIONS.

### 1-3.1 General.

The abbreviations herein, together with others in general use, are applicable to these Standard Specifications and to all other Contract Documents.

All abbreviations and symbols used on Plans for structural steel construction shall conform to those given by the "Manual of Steel Construction" published by the American Institute of Steel Construction, Inc.

### 1-3.2 Common Usage.

#### **Abbreviation ..... Word or Words**

ABS.....	Acrylonitrile-Butadiene-Styrene
AC.....	Alternating Current
ADA .....	Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Sat. 1990, 42 USC 12101-12213 (as amended))
APC.....	Air Placed Concrete
ARHM .....	Asphalt Rubber Hot Mix
ARAM.....	Asphalt Rubber and Aggregate Membrane
AWG .....	American Wire Gauge
BMPs .....	Best Management Practices
BR.....	Butadiene Rubber

BWG .....	Birmingham Wire Gauge
CAB.....	Crushed Aggregate Base
CAPA .....	Corrugated Aluminum Pipe Arch
CAP.....	Corrugated Aluminum Pipe
CBR .....	California Bearing Ratio
CCFRPM.....	Centrifugally Cast Fiberglass Reinforced Plastic Mortar
CCR .....	California Code of Regulations
CCTV .....	Closed Circuit Television
CHDPE .....	Corrugated High Density Polyethylene
CIP .....	Cast Iron Pipe
CIPCP .....	Cast-In-Place Non-Reinforced Concrete Pipe
CIPP.....	Cured-In-Place Pipe
CLSM .....	Controlled Low Strength Material
CMB .....	Crushed Miscellaneous Base
CMP .....	Corrugated Metal Pipe
CQS .....	Cationic Quick-Setting
CRM.....	Crumb Rubber Modifier
CRS .....	Cationic Rapid-Setting
CRUMAC .....	Crumb Rubber Modified Asphalt Concrete
CSEP .....	Confined Space Entry Plan
CSPA .....	Corrugated Steel Pipe Arch
CSPB .....	Cement Stabilized Pulverized Base
CSP.....	Corrugated Steel Pipe
CSS.....	Cationic Slow-Setting
CTB.....	Cement Treated Base
CTM .....	California Test Method
CT .....	California Test
CWA.....	Constant Wattage Attenuator
CW .....	Constant Wattage
DC.....	Direct Current
DIP.....	Ductile Iron Pipe
EAS.....	Emulsion-Aggregate Slurry
EPDM.....	Ethylene-Propylene Diene Monomer
EPM.....	Ethylene-Propylene Monomer
FRPM.....	Fiberglass Reinforced Polymer Mortar
GG .....	Gap-Graded
HC.....	House Connection
HDPE .....	High Density Polyethylene
HPS.....	High Pressure Sodium
HRWRA .....	High Range Water Reducing Admixture
IIPP .....	Injury and Illness Prevention Program
IPS .....	Iron Pipe Size
JMF .....	Job Mix Formula
LCB .....	Lean Concrete Base
LED .....	Light Emitting Diode
LSPB.....	Lime Stabilized Pulverized Base
LS.....	Lump Sum
MAC .....	Modified Asphalt Cement
MC .....	Medium Curing
Min .....	Minimum

MTBM .....	Microtunneling Tunnel Boring Machine
MUTCD .....	Manual on Uniform Traffic Control Devices
N/A .....	Not Applicable
NBR .....	Nitrile-Butadiene Rubber
NEC .....	National Electric Code
NPDES .....	National Pollutant Discharge Elimination System
NRCP .....	Non-Reinforced Concrete Pipe
OBC .....	Optimum Binder Content
OD .....	Outside Diameter
PAM .....	Pneumatically Applied Mortar
PAV .....	Pressure Aging Vessel
PBM .....	Pulverized Base Material
PCC .....	Portland Cement Concrete
PE .....	Polyethylene
PG .....	Performance Graded
PLI .....	Pounds Per Linear Inch
PMB .....	Processed Miscellaneous Base
PME .....	Polymer Modified Emulsion
PM .....	Polymer Modified
PRCB .....	Precast Reinforced Concrete Box
PTFE .....	Polytetrafluoroethylene
PVC .....	Polyvinyl Chloride
RC .....	Rapid Curing
R .....	Resistance Value
RA .....	Reclaimed Aggregates
RAP .....	Reclaimed Asphalt Pavement
RCP .....	Reinforced Concrete Pipe
REAS .....	Rubberized Emulsion-Aggregate Slurry
RMS .....	Root Mean Square
RPPCC .....	Reclaimed Plastic Portland Cement Concrete
RTFO .....	Rolling Thin Film Oven
RW .....	Reclaimed Water
S .....	Hveem Stability
SAPPA .....	Structural Aluminum Plate Pipe Arch
SAPP .....	Structural Aluminum Plate Pipe
SBR .....	Styrene-Butadiene Rubber
SC .....	Slow Curing
SCMs .....	Supplementary Cementitious Materials
SDR .....	Standard Dimension Ratio
SDS .....	Safety Data Sheet
SE .....	Sand Equivalent
SG .....	Specific Gravity
SI .....	International System of Units (Metric)
SLC .....	Service Lateral Connection
SPA .....	Special Performance Admixture
SS .....	Slow-Setting
SSPPA .....	Structural Steel Plate Pipe Arch
SSPP .....	Structural Steel Plate Pipe
SWPPP .....	Storm Water Pollution Prevention Plan

TCP .....	Traffic Control Plan
THN .....	Thermoplastic, High Heat, Nylon-Coated
THWN .....	Thermoplastic, Heat and Water Resistant, Nylon-Coated
THW .....	Thermoplastic, Heat and Water Resistant
TRMAC .....	Tire Rubber Modified Asphalt Concrete
TR .....	Tire Rubber
TTC .....	Temporary Traffic Control
TW .....	Thermoplastic, Water Resistant
U.S.C. ....	United States Code
U.S. ....	United States
UV .....	Ultraviolet
VCP .....	Vitrified Clay Pipe
VTCSH .....	Vehicle Traffic Controls Signal Head
WATCH .....	Work Area Traffic Control Handbook
WMA .....	Warm Mix Asphalt
WTAT .....	Wet Track Abrasion Test
X .....	By

### 1-3.3 Institutions.

<b>Abbreviation</b>	<b>Word or Words</b>
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASQ	American Society for Quality
ASTM	American Society for Testing and Materials
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
EEI	Edison Electric Institute
EIA	Electronic Industries Alliance
EPA	Environmental Protection Agency
ETL	Electrical Testing Laboratories
FCC	Federal Communications Commission
FHWA	Federal Highway Administration
GRI	Geosynthetic Research Institute
IEEE	Institute of Electrical and Electronics Engineers
IMSA	International Municipal Signal Association
ISSA.	International Slurry Surfacing Association
ITE	Institute of Transportation Engineers
NCHRP	National Cooperative Highway Research Program
NEMA	National Electrical Manufacturers Association
NSF	NSF International
OSHA	Occupational Safety and Health Administration
PPI	Plastics Pipe Institute

RUS	Rural Utilities Service
SAE	Society of Automotive Engineers
SSPC	Society for Protective Coatings
UL	Underwriters' Laboratories Inc.

#### 1-3.4 Building Codes.

The Ventura County Building Code (VCBC) and Ventura County Fire Code (VCFC) are applicable to the Work. VCBC and VCFC adopt by reference a number of uniform and national codes. Where such codes are referenced directly in the Specifications, such references shall be to the VCBC or VCFC which adopt and modify certain provisions in the referenced codes.

<u>Abbreviation</u>	<u>Code</u>	<u>Publisher</u>
CBC	California Building Code	CBSC
CEC	California Energy Code	ICC
CEBC	California Existing Building Code	ICC
CALGreen	California Green Building Standards Code	ICC
CRC	California Residential Code	ICC
DBC	Uniform Code for Abatement of Dangerous Buildings	ICC
IBC	International Building Code	ICC
IFC	International Fire Code	ICC
UHC	Uniform Housing Code	ICBO
UMC	Uniform Mechanical Code	IAPMO
UPC	Uniform Plumbing Code	IAPMO
NEC	National Electrical Code	NFPA

#### 1-3.5 Reference Documents.

<u>Abbreviation</u>	<u>Document</u>
HDM	Highway Design Manual, State of CA, Dept. of Transportation, Latest Edition
MUTCD	Manual on Uniform Traffic Control Devices
SSP	Standard Plans, State of California, Department of Transportation, Latest Edition
SPPWC	Standard Plans for Public Works Construction, Latest edition, published by BNi Building News, Los Angeles,
SPPWC	Standard Specifications for Public Works Construction, (See Section 0-1)
SSS	Standard Specifications, State of California, Department of Transportation, Latest Edition
VCSS	Ventura County Standard Specifications

## 1-4 UNITS OF MEASURE.

### 1-4.1 General.

The U.S. Standard Measures, also referred to as the U.S. Customary System, is the principal measurement system in these Specifications and shall be used for construction unless otherwise specified in the Special Provisions. The International System of Units, also referred to as SI or the metric system, is included in parenthesis. U.S. Standard Measures units may or may not be exactly equivalent to the SI units in parenthesis. If SI is specified for use in the Contract Documents, then all values used for construction shall be the SI units shown in parenthesis. Certain material specifications and test requirements contained herein use SI units specifically and U.S. Standard Measures have not been included in those circumstances.

Reference is also made to ASTM E380 for definitions of various units of the SI system and a more extensive set of conversion factors.

#### 1-4.1.1 Units for Work.

Where U. S. Standard Measure units are shown on the Plans or are specified, U. S. Standard Measure shall be used for the Work.

### 1-4.2 Units of Measure and Their Abbreviations.

U.S. Customary Unit (Abbreviations)	Equal To	SI Unit (Abbreviations)
1 mil (= 0.001 inch) .....		25.4 micrometer ( $\mu\text{m}$ )
1 inch .....		25.4 millimeter (mm)
1 inch .....		2.54 centimeter (cm)
1 foot (ft).....		0.3048 meter (m)
1 yard (yd).....		0.9144 meter (m)
1 mile (mi) .....		1.6093 kilometer (km)
1 square foot ( $\text{ft}^2$ ) .....		0.0929 square meter ( $\text{m}^2$ )
1 square yard ( $\text{yd}^2$ ) .....		0.8361 square meter ( $\text{m}^2$ )
1 cubic foot ( $\text{ft}^3$ ) .....		0.0283 cubic meter ( $\text{m}^3$ )
1 cubic yard ( $\text{yd}^3$ ) .....		0.7646 cubic meter ( $\text{m}^3$ )
1 acre .....		0.4047 hectare (ha)
1 U.S. gallon (gal) .....		3.7854 liter (L)
1 fluid ounce (fl. oz).....		29.5735 milliliter (mL)
1 pound mass (lb) (avoirdupois).....		0.4536 kilogram (kg)
1 ounce mass (oz) .....		0.02835 kilogram (kg)
1 Ton (= 2000 lb avoirdupois) .....		0.9072 tonne (= 907 kg)
1 Poise .....		0.1 pascal · second ( $\text{Pa} \cdot \text{s}$ )
1 centistoke (cs).....		1 square millimeters per second ( $\text{mm}^2/\text{s}$ )
1 pound force (lbf).....		4.4482 Newton (N)
1 pound per square inch (psi) .....		6.8948 kilopascal (kPa)
1 pound force per foot (lbf/ft).....		1.4594 Newton per meter (N/m)
1 foot-pound force (ft-lbf).....		1.3558 joules (J)
1 foot-pound force per second (ft-lbf).....		1.3558 watt (W)
1 part per million (ppm) .....		1 milligram/liter (mg/L)

## Temperature Units and Abbreviations

Degree Fahrenheit (°F):

$$^{\circ}\text{F} = (1.8 \times ^{\circ}\text{C}) + 32$$

Degree Celsius (°C):

$$^{\circ}\text{C} = (^{\circ}\text{F} - 32)/1.8$$

## SI Units (abbreviation) Commonly Used in Both Systems

1 Ampere (A)

1 Volt (V)

1 Candela (cd)

1 Lumen (lm)

1 second (s)

## Common Metric Prefixes

kilo (k).....  $10^3$

centi (c) .....  $10^{-2}$

milli (m).....  $10^{-3}$

micro ( $\mu$ ).....  $10^{-6}$

nano (n).....  $10^{-9}$

pico (p).....  $10^{-12}$

## 1-5 SYMBOLS.

%.....Percent

' .....Feet or minutes

" .....Inches or seconds

<sup>1</sup>.....Number

/.....per or (between words)

°.....Degree

x .....Times

## 1-6 BIDDING AND SUBMISSION OF THE BID.

### 1-6.1 General.

Bidding and submission of the Bid shall conform to the requirements specified in the Special Provisions, Instructions to Bidders, and Notice Inviting Bids.

### 1-6.2 Subcontractor Listing.

Each Bidder shall comply with Division 2, Chapter 4 of the Public Contract Code including Sections 4100 through 4113.

The Bidder shall set forth in the Bid, as provided in 4104:

- "a) (1) The name, the location of the place of business, and the California contractor license number and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of

the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater."

"(2) An inadvertent error in listing the California contractor license number provided pursuant to paragraph (1) shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the public entity by the prime contractor within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor."

"(3) (A) Subject to subparagraph (B), any information requested by the officer, department, board, or commission concerning any subcontractor who the prime contractor is required to list under this subdivision, other than the subcontractor's name, location of business, the California contractor license number, and the public works contractor registration number, may be submitted by the prime contractor up to 24 hours after the deadline established by the officer, department, board, or commission for the receipt of bids by prime contractors."

"(B) A state or local agency may implement subparagraph (A) at its option."

"b) The portion of the work which will be done by each such subcontractor under this act. The prime contractor shall list only one subcontractor for each such portion as is defined by the prime contractor in his or her bid."

If the Contractor fails to specify a Subcontractor, or specifies more than one Subcontractor for the same portion of the Work to be performed under the Contract (in excess of one-half of 1 percent of the Contractor's total bid), the Contractor shall be qualified to perform that portion itself, and shall perform that portion itself except as otherwise provided in the Code.

Except as provided in Section 4107, no prime contractor, whose Bid is accepted, shall substitute any person or Subcontractor in place of the Subcontractor listed in the original bid other than for causes and by procedures established in Section 4107.5 which provides procedures to correct a clerical error in the listing of a Subcontractor.

Section 4110 provides that a Contractor violating any of the provisions of the Chapter violates the Contract and the Board may exercise the option either to cancel the Contract or assess the Contractor a penalty in an amount of not more than 10 percent of the subcontract involved, after a public hearing.

## 1-7 AWARD AND EXECUTION OF THE CONTRACT.

### 1-7.1 General.

Award and execution of the Contract shall be as specified in the Special Provisions, Instruction to Bidders, or Notice Inviting Bids.

### 1-7.2 Contract Bonds.

Before execution of the Contract by the Agency, the Contractor shall file surety bonds with the Agency to be approved by the Board in the amounts and for the purposes noted below. Bonds issued by a Surety who is listed in the latest version of U.S. Department of Treasury Circular 570, who is authorized to issue bonds in California, and whose bonding limitation shown in said circular is sufficient to provide bonds in the amount required by the Contract shall be deemed to be approved unless specifically rejected by the Agency. Bonds from all other sureties shall be accompanied by all of the documents enumerated in Code of Civil Procedure 995.660(a). The Bidder shall pay all bond premiums, costs, and incidentals.

Each bond shall incorporate, by reference, the Contract and be signed by both the Bidder and Surety and the signature of the authorized agent of the Surety shall be notarized.

The Bidder shall provide two good and sufficient surety bonds. The "Payment Bond" (Material and Labor Bond) shall be for not less than 100 percent of the Contract Price, to satisfy claims of material suppliers and mechanics and laborers employed by it on the Work. The bond shall be maintained by the Contractor in full force and effect until the Work is accepted by the Agency, and until all claims for materials and labor are paid, and shall otherwise comply with the Civil Code.

The "Performance Bond" shall be for 100 percent of the Contract Price to guaranty faithful performance of all Work, within the time prescribed, in a manner satisfactory to the Agency, and that all materials and workmanship will be free from original or developed defects. The bond must remain in effect until the end of the warranty period set forth in 3-14.2.

Should any bond become insufficient, the Contractor shall renew the bond within 10 Days after receiving notice from the Agency.

Should any Surety at any time be unsatisfactory to the Board, notice will be given the Contractor to that effect. No further payments shall be deemed due or will be made under the Contract until a new Surety shall qualify and be accepted by the Board.

Changes in the Work, or extensions of time, made pursuant to the Contract, shall in no way release the Contractor or Surety from its obligations. Notice of such changes or extensions shall be waived by the Surety.

#### 1-7.2.1 Bond Forms.

Bonds shall be on forms furnished by Agency.

#### 1-7.3 Award of Contract.

The right is reserved to waive minor irregularities in the proposals and to reject any or all proposals. The award of the Contract, if it be awarded, will be to the lowest responsive, responsible Bidder, determined as provided on the Proposal Form, whose Proposal complies with all the requirements prescribed. Such award, if made, will be made within the number of Days stated in the Proposal form. If the lowest responsible Bidder refuses or fails to execute the Contract, the Agency may, within 45 additional Days, consider the next lowest Bidder to be the lowest responsive, responsible Bidder. The periods of time specified above within which the award of Contract may be made shall be subject to extension for such further period as may be agreed upon in writing by the Bidder concerned. If the Bidder's bid guarantee was in the form of a bid bond, the Bidder shall also submit a statement from the Surety that the bond has been extended for the same period.

Proposals not accompanied by a properly executed Noncollusion Affidavit required by Public Contract Code Section 7106 will be considered nonresponsive and will not be considered for award.

All bids will be compared on the basis of the quantities, amounts and unit prices, or lump sums, as shown on the Bid Proposal.

Before award, the Bidder may be required to furnish acceptable evidence of adequate capability, equipment and financial resources to adequately perform the Work. Bidders found not to be so qualified may have their bids rejected. If reasonable cause exists to believe collusion exists among Bidders, or that prices Bid are unbalanced between Bid items, any or all proposals may be rejected.

Award will not be made to a Bidder who is listed by the State Labor Commissioner as ineligible to bid, work on, or be awarded public works projects.

#### 1-7.4 Notice of Award.

Within one Day after award of Contract by the Board, the Bidder to whom Contract is awarded will be notified of award by email and telephone, or if no contact is made by telephone, then by mail. Within three business days after award of Contract, a Notice of Award will be sent, transmitting the Contract Documents to such Bidder for execution. If telephone contact is made, the Bidder may request that the Contract Documents be held in Agency's office to be picked up.

#### 1-7.5 Execution of Contract Documents.

On receipt of the Contract Documents, the Bidder shall promptly obtain the required insurance coverage, certificates of insurance, power-of-attorney and Contract bonds, execute the Contract, and transmit all required documents to the Agency (in the forms included in the appendices hereto).

#### 1-7.6 Failure to Execute Documents.

Should the Bidder fail to furnish Agency all required documents, properly executed, prior to the starting day of the Contract time computed as provided in 6-3.2.1 and stated in the Notice of Award, Agency may thereafter declare the Bidder to be in default and its Proposal guarantee forfeited.

#### 1-7.7 Return of Proposal Guarantees.

Within 10 Days after the award of the Contract, Agency will return the Proposal guarantees, other than Bidder's bonds, accompanying such of the proposals as are not to be further considered in making the award. The low and second Bidder's Proposal guarantee will be held until the Contract has been executed, after which all Proposal guarantees, except Bidders' bonds and any guarantees which have been forfeited, will be returned to the respective Bidders whose proposals they accompany.

## SECTION 2 - SCOPE OF THE WORK

### 2-1 WORK TO BE DONE.

The Contractor shall perform all work necessary to complete the Contract in accordance with the Contract Documents. Unless otherwise specified, the Contractor shall furnish all materials, equipment, tools, labor, and incidentals necessary to complete the Work.

All work under the Contract shall be performed in accordance with the highest standards prevailing in the trades unless otherwise specified on the Plans or in the Special Provisions. Unless otherwise specified, it is the intent that the Contractor will construct a complete facility ready for use.

#### 2-1.1 Manufacturer's Recommendations.

Where the manufacturer of any materials or equipment provides written recommendations or instructions for its use or method of installation (including labels, tags, manuals, or trade literature), such recommendations or instructions shall be complied with except where the Contract Documents specifically require deviations.

#### 2-1.2 Testing of Installed Components.

Where the specifications provide that any component of the Work is to be tested, calibrated or adjusted during or after installation, such testing shall be performed by a qualified firm, approved by the Engineer. The firm performing the testing or calibration shall be employed by and paid for by the Contractor.

#### 2-1.3 Training of Agency Personnel.

Where the specifications provide for training of Agency personnel in the use or maintenance of any component of the Work, the Contractor shall arrange for and pay for competent personnel to perform the training. Contractor shall schedule the training with the Engineer.

### 2-2 PERMITS.

The Agency will obtain, at no cost to the Contractor, all permits necessary to perform the Work in streets, highways, railways or other rights-of-way. The Contractor shall obtain and pay for all costs incurred for permits necessitated by its operations such as, but not limited to, those permits required for night work, overload, blasting, and demolition. The Contractor shall pay all business taxes or license fees that are required for the Work.

#### 2-2.1 Highway and Railroad Permits.

The Engineer will obtain the basic State highway and railroad encroachment permits which will include checking of plans. However, the Contractor must also obtain permits from these agencies. Inspection fees charged by these agencies must be paid by the Contractor.

#### 2-2.2 Grading Ordinance.

##### 2-2.2.1 General.

All excavation, filling and grading operations in Ventura County are governed by the Ventura County Grading Ordinance or City Ordinances, except within the project right of way shown on the Plans.

#### 2-2.2.2 Permits Required.

Work outside the project right of way which involves excavation or filling of soils is subject to all requirements of the applicable grading ordinance. The requirements may include, but are not limited to, submitting of a grading plan prepared by a Civil Engineer, obtaining a grading permit, paying the permit fee, posting a grading bond, hiring professionals for engineering and testing services, compacting fills, constructing drainage facilities and providing erosion protection.

#### 2-2.2.3 Imported and Exported Material.

To insure that neither the Agency nor the Contractor is a party to aiding or abetting any property owner (who is ultimately responsible) to violate the applicable grading ordinance, no material shall be imported from or exported or wasted outside the project right of way until the Contractor has furnished the Engineer a copy of the grading permit covering such operation on land where material is to be deposited or excavated, unless exempt.

#### 2-2.2.4 Exemptions from Permit.

No grading permit is required of the Contractor for Work performed within the project right of way shown on the Plans or on borrow or disposal areas shown on the Plans or described in the Special Provisions and which are specifically designated as being exempt from such permit requirements.

### 2-2.3 Building Permit.

#### 2-2.3.1 Agency Furnished Permits.

Except as provided in 2-2.3.2, Agency will submit the plans for the Work to Department of Building and Safety, and other building related permit issuing agencies, for plan check and make the corrections necessary for the issuance of building and related permits. Agency will Pay plan check and permit fees for the Work. The Contractor may be required to furnish information to the permit issuing agencies, as required for the issuance of permits, and sign the permit.

#### 2-2.3.2 Contractor Furnished Permits.

Components or systems, required by the Contract, may require the preparation of plans and calculations to obtain approvals or permits from state or local building, fire prevention, public health, safety, environmental protection and other agencies in addition to the basic permits arranged for by the Agency as provided in 2-2.3.1. Contractor shall take all actions in a timely manner to obtain such approvals or permits so as not to delay completion of the Work beyond the time provided in 6-3. Contractor shall include all costs and consider the time required to obtain approvals or permits in the Contract price bid.

### 2-2.4 Coastal Zone Permits.

#### 2-2.4.1 Agency Furnished Permits.

Permits required for Work on the project within rights of way furnished by the Agency within the Coastal Zone will be obtained by the Agency.

#### 2-2.4.2 Contractor Furnished Permits.

Permits required for the Contractor's operations outside of rights of way furnished by the Agency must be obtained by the Contractor. Such permits are required for brush removal, grading, dredging, disposal of material and many other operations within the Coastal Zone.

## 2-3 RIGHT-OF-WAY.

Rights-of-way, easements, or rights-of-entry for the Work will be provided by the Agency. Unless otherwise specified, the Contractor shall make arrangements, pay for, and assume all responsibility for acquiring, using, and disposing of additional work areas and facilities temporarily required. The Contractor shall indemnify and hold the Agency harmless from all claims for damages caused by such actions.

## 2-4 COOPERATION AND COLLATERAL WORK.

The Contractor shall be responsible for ascertaining the nature and extent of any simultaneous, collateral, and essential work by others. The Agency, its workers and contractors and others, shall have the right to operate within or adjacent to the Work site during the performance of such work.

The Agency, the Contractor, and each of such workers, contractors and others, shall coordinate their operations and cooperate to minimize interference.

The Contractor shall include in its Bid all costs involved as a result of coordinating its work with others. The Contractor will not be entitled to additional compensation from the Agency for damages resulting from such simultaneous, collateral, and essential work. If necessary to avoid or minimize such damage or delay, the Contractor shall redeploy its work force to other parts of the Work.

Should the Contractor be delayed by the Agency, and such delay could not have been reasonably foreseen or prevented by the Contractor, the Engineer will determine the extent of the delay, the effect on the Work, and any extension of time.

## 2-5 THE CONTRACTOR'S EQUIPMENT AND FACILITIES.

### 2-5.1 General.

The Contractor shall furnish and maintain in good condition all equipment and facilities as required for the proper execution and inspection of the Work.

The Contractor shall provide and maintain enclosed toilets for the use of employees engaged in the Work. These accommodations shall be maintained in a neat and sanitary condition, and regularly pumped out.

The Contractor and any and all subcontractors shall at all times have valid Certificates of Reported Compliance as described in California Code of Regulations, title 13, ("13 CCR") section 2449(n) for fleets of vehicles subject to 13 CCR section 2449 which may be used in performance of the contract. No such vehicle is permitted onsite unless and until Contractor provides County with a valid Certificate of Reported compliance therefor.

### 2-5.2 Temporary Utility Services.

The Contractor shall, at its own expense, make all arrangements necessary for the provision of temporary utility services necessary for its own use during performance of the Work.

The Contractor shall not draw water from any fire hydrant (except to extinguish a fire), without obtaining permission from the water utility owner.

### 2-5.3 Crushing and Screening Operations.

Unless otherwise specified in the Special Provisions, the establishment and operation of portable screens and crushers will not be allowed on or adjacent to the Work site.

#### 2-5.4 Haul Routes.

Unless otherwise specified in the Special Provisions, the haul route(s) shall be determined by the Contractor.

### 2-6 CHANGES REQUESTED BY THE CONTRACTOR.

#### 2-6.1 General.

Changes in specified methods of construction may be made at the Contractor's request when approved in writing by the Engineer. Changes in the Plans and Specifications, requested in writing by the Contractor, which do not materially affect the Work and which are not detrimental to the Work or to the interests of the Agency, may be granted by the Board to facilitate the Work, when approved in writing by the Engineer. Nothing herein shall be construed as granting a right to the Contractor to demand acceptance of such changes.

### 2-7 CHANGES INITIATED BY THE AGENCY.

#### 2-7.1 General.

The Agency may change the Plans, Specifications, character of the Work, or quantity of work, provided the total arithmetic dollar value of all such changes, both additive and deductive, does not exceed 25 percent of the Contract Price. Should it become necessary to exceed this limitation, the change shall be by written Supplemental Agreement between the Contractor and Agency, unless both parties agree to proceed with the change by Change Order.

Change orders shall be in writing and state the dollar value of the change or establish method of payment, any adjustment in Contract time, and, when negotiated prices are involved, shall provide for the Contractor's signature indicating its acceptance.

### 2-8 EXTRA WORK.

New or unforeseen work will be classed as "Extra Work" when the Engineer determines that it is not covered by Contract Unit Prices or Stipulated Unit Prices.

### 2-9 CHANGED CONDITIONS.

The Contractor shall notify the Engineer in writing of the following work site conditions, hereinafter called changed conditions, promptly upon their discovery and before they are disturbed:

- 1) Subsurface or latent physical conditions differing materially from those represented in the Contract;
- 2) Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character being performed; and
- 3) Material differing from that represented in the Contract which the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law.

The Engineer will promptly investigate conditions which appear to be changed conditions. If the Engineer determines that the conditions are changed conditions and that they will materially increase or decrease the costs of any portion of the Work, a Change Order will be issued adjusting the compensation for such portion of the Work in accordance with 2-7. VCI If the Engineer determines that conditions are changed conditions and that they will materially affect

the performance time, the Contractor, upon submitting a written request, will be granted an extension of time subject to the provisions of 6-4.

If the Engineer determines that the conditions of which it has been notified by the Contractor do not justify an adjustment in compensation, the Contractor will be so notified in writing. This notice will also advise the Contractor of its obligation to notify the Engineer, in writing, if the Contractor disagrees.

Should the Contractor disagree with such determination, it may submit a written notice of potential claim to the Engineer before commencing the disputed work. In the event of such a disagreement, the Contractor shall not be excused on account of that disagreement from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. However, the Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties. The Contractor shall proceed as provided in 3-4.

The Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

## **2-10 DISPUTED WORK.**

If the Contractor and the Agency are unable to reach agreement on disputed work, the Agency may direct the Contractor to proceed with the Work. Payment shall be as later determined by mediation or arbitration, if the Agency and the Contractor agree thereto, or as fixed in a court of law.

Although not to be construed as proceeding under Extra Work provisions, the Contractor shall keep and furnish records of disputed work in accordance with 7-4.

## **SECTION 3 - CONTROL OF THE WORK**

### **3-1 ASSIGNMENT.**

No Contract or portion thereof may be assigned without consent of the Board except that the Contractor may assign money due or which will accrue to it under the Contract. If given written notice, such assignment will be recognized by the Board to the extent permitted by law, but any assignment of money shall be subject to all proper withholdings in favor of the Agency and to all deductions provided for in the Contract. All money withheld, whether assigned or not, shall be subject to being used by the Agency for completion of the Work, should the Contractor be in default.

### **3-2 SELF- PERFORMANCE.**

Except where the required Contractor's License Class is "B", the Contractor shall perform, with its own organization, Contract work amounting to at least 50 percent of the Contract Price except that any designated "Specialty Items" may be performed by subcontract and the amount of any such "Specialty Items" so performed may be deducted from the Contract Price before computing the amount required to be performed by the Contractor with its own organization. "Specialty Items" will be identified by the Agency in the Bid or Proposal with an "[S]". Where an entire item is subcontracted, the value of work subcontracted will be based on the Contract Unit Price. When a portion of an item is subcontracted, the value of work subcontracted will be based on the estimated percentage of the Contract Unit Price. This will be determined from information submitted by the Contractor, and subject to approval by the Engineer.

### **3-3 SUBCONTRACTORS.**

The Contractor shall give personal attention to the fulfillment of the Contract. The Contractor shall keep the Work under its control. Subcontractors shall be considered employees of the Contractor, and the Contractor shall be responsible for their work.

In addition to the requirements of 1-6.2, before the work of any Subcontractor is started, the Contractor shall submit to the Engineer for approval a written statement listing the name, contractor license number, registration with the Department of Industrial Relations, and business address of each Subcontractor and a description and value of each portion of the Work to be so subcontracted.

#### **3-3.1 Use of Debarred Subcontractors Prohibited.**

The Contractor is prohibited from performing work using a Subcontractor who is listed by the State Labor Commissioner as ineligible to work on public works projects.

#### **3-3.2 Subcontracts.**

The Contractor shall incorporate into all subcontracts, and the Subcontractor shall incorporate into all lower tier subcontracts, all of the Plans and Specifications which are part of the Contract between the Contractor and the Agency.

#### **3-3.3 Contractor Responsible.**

The Contractor is responsible for properly performing and completing all Work required by the Contract whether or not it employs subcontractors for certain portions of the Work. It shall coordinate the sequence and timing of its efforts and that of its subcontractors to insure the proper and timely completion of the Work.

### 3-3.4 Specialty Contractors.

Where a specialty Contractor's license is required by law or by the Specifications in order to perform certain portions of the Work, the Contractor may perform such portion with its own forces if it holds the proper license. Otherwise, it shall employ a properly licensed subcontractor to perform that portion of the Work. Such requirement to employ a subcontractor does not modify the other requirements of 3-3.

## 3-4 AUTHORITY OF BOARD AND ENGINEER.

### 3-4.1 General.

The Board has complete authority in all matters affecting the Work. Within the scope of the Contract, the Engineer has the authority to enforce compliance with the Plans and Specifications. The contractor shall promptly comply with instructions from the Engineer or its authorized representative.

On all questions relating to quantities, the acceptability of material, equipment, or work, the execution, progress or sequence of work, and the interpretation of Specifications or drawings, the decision of the Engineer is final and binding, and shall be precedent to any payment under the Contract, unless otherwise ordered by the Board.

#### 3-4.1.1 Decisions in Writing.

Any and all decisions of the Engineer interpreting Specifications or drawings shall be in writing. Any purported "interpretation" which is not in writing shall not be binding upon the Agency and should not be relied upon by the Contractor.

### 3-4.2 Engineer.

The Director of the Public Works Agency of the County of Ventura is the Engineer and has general authority to administer the Contract. The Engineer has the following specific authority:

- (a) To issue Contract Change Orders (CCO) and to settle claims subsequent to Acceptance as follows:

<u>Original Contract Amount</u>	<u>Maximum Amount of any Change Order or Claim</u>
<u>Settlement</u>	
\$50,000 or less.....	\$5,000
greater than \$50,000	
and not over \$250,000 .....	10% of the original Contract amount
greater than \$250,000	
and not over \$3,950,000 .....	\$25,000 plus 5% of the original Contract cost in excess of \$250,000.
greater than \$3,950,000.....	\$210,000

CCOs and claim settlements exceeding the amounts set forth above require Board approval.

- (b) To make final adjustments of quantities (FAQ) on unit price items.
- (c) To accept the Work when the Contractor has completed all obligations of the Contract, in accordance with the Plans, Specifications and other Contract Documents. The Engineer also has authority to make and record the Notice of Completion.
- (d) To approve progress and final payments under the Contract, including the provisions for withholding funds.
- (e) To determine whether performance on the Work is satisfactory. Satisfactory performance includes compliance with all contract requirements.
- (f) To approve the substitution of a Subcontractor, where allowed by law, if the listed Subcontractor does not object when notified.
- (g) To suspend the Work for the benefit of the Agency.
- (h) In the absence of the Agency Director, a Public Works Agency Department Director, as Deputy Director of Public Works, may exercise the Engineer's authority. Such action will be indicated by "Acting" with the Department Director's signature.

### 3-4.3 Department Director (Public Works Agency).

The Department Director responsible for the project is designated in the Notice to Proceed. The Department Director has the following authority:

- (a) To issue Contract Change Orders (CCO) as follows:

<u>Original Contract Amount</u>	<u>Maximum Amount of any Change Order</u>
Less than \$500,000.....	\$5,000
\$500,000 to \$1,000,000 .....	1% of Bid Price
Greater than \$1,000,000 .....	\$10,000

- (b) To issue extensions of Contract time in accordance with the Contract Documents.
- (c) To make final adjustment of quantities where the total does not exceed the amounts listed in (a) above.
- (d) To approve the substitution of subcontractors, where allowed by law, if the listed Subcontractor does not object when notified.
- (e) To determine when the Work has been completed and acknowledge in writing the completion of the Work.

### 3-4.4 Project Manager.

The Project Manager responsible for the project is designated in the Notice to Proceed. This person may also be referred to as Project Engineer. The Project Manager has the following authority:

- (a) To interpret the Plans and Specifications.
- (b) To make minor changes in the location or features of the Work where no change in cost is involved. Such changes in cost may not be the net of multiple changes.

- (c) To approve substitutes for material and equipment specified by proprietary names when such material and equipment meet the Contract requirements.
- (d) To approve shop drawings and submittals.
- (e) To issue stop work orders when necessary to enforce the provisions of the Contract.
- (f) To make determinations of each Working Day to be charged against the Contract time in accordance with 6-3.2.
- (g) To take over a portion of the Work for Agency's use in accordance with 6-5.
- (h) To receive all correspondence and other documents from the Contractor.
- (i) To inspect the Work and perform Final Inspection subject to review by the Department Director and the Engineer.

### 3-4.5 Inspector.

One or more inspectors will be assigned to the project by the Project Manager. Substitutes may be used during absence of the assigned inspector. The Inspector has the following authority subject to review by the Project manager, Department Director and the Engineer:

- (a) To view and inspect the Work, sample and test components (at the Work site and at offsite manufacturing locations), and to discuss the Work with the Contractor's field representative.
- (b) To determine compliance with the Plans, Specifications and other Contract Documents and to issue warnings of noncompliance.
- (c) To issue stop work notices in the following two instances only:
  - 1) Where a safety hazard exists that has an immediate potential for serious injury or death.
  - 2) Where the operation in progress, if continued for even a short period of time, could be adverse to the Agency's interests.

### 3-4.6 Other Agency Personnel and Consultants.

#### 3-4.6.1 Materials Engineer.

The Materials Engineer is designated in the Notice to Proceed. The Materials Engineer may assign one or more Materials Inspectors to the project.

Materials Inspectors have authority to sample and test material at the Work site and at offsite manufacturing or storage locations. They may furnish available written test results to the Contractor's field representative. At batch plants, they may issue warnings of noncompliance, but stop notices require the signature of the Materials Engineer or Project Manager.

#### 3-4.6.2 Surveyors & Technicians.

Surveyors and technicians shall have free access to the site to perform their duties but have no authority related to Contract administration.

#### 3-4.6.3 Other Persons.

Other Agency personnel who are not involved in construction administration and the general public may be present at the site because it is their present place of work, as client/customers, as visitors, as future users of the facility, or as persons who will maintain the completed facility. Where the facility is to continue in use during construction, work access for Agency workers and client/customers shall be maintained as provided in the Special Provisions. Where the facility (or portion where construction is being performed) is not in use during construction, admittance to the Work site by Agency personnel not involved in construction administration and visitors may be allowed by the Contractor or by the inspector, subject to compliance with safety regulations. Such persons have no authority under the Contract and the Agency is not responsible for their comments, suggestions, or directions.

#### 3-4.6.4 Consultants.

Consultants hired by the Agency shall have free access to the site to perform their duties but have no authority related to Contract administration, unless such duties are specifically identified in writing to the Contractor. When so identified, Consultant may perform the duties of certain Agency personnel described above.

### 3-5 INSPECTION.

The Work is subject to inspection and approval by the Engineer. The Contractor shall notify the Engineer before noon of the Working Day before inspection is required. Work shall be done only in the presence of the Engineer, unless otherwise approved. Any work done without proper inspection will be subject to rejection. The Engineer and any authorized representatives shall at all times have access to the Work during its construction at shops and yards and while in storage, as well as to the Work site. The Contractor shall provide every reasonable facility for ascertaining that the materials and workmanship conform to the Contract Documents. Inspection of the Work shall not relieve the Contractor of the obligation to fulfill all conditions of the Contract.

#### 3-5.1 Permit Inspections.

The Contractor shall arrange for code compliance inspections by all agencies issuing permits for the Work. The Work shall not continue beyond mandatory inspection points without clearance from the controlling agency. Each agency involved shall be notified in accordance with the code they enforce or in accordance with their standard operating procedures. No extensions of time will be granted for delays occasioned by such inspections except where, through no fault of the Contractor, the inspection is delayed more than one Day beyond normal response time after proper notification has been given.

It shall be the Contractor's responsibility to see that any required inspection record card is signed off before proceeding with the next phase of the Work and completely signed off on completion of the Work.

#### 3-5.2 Structural Observation.

When the plans indicate that "Structural Observation" of specific work is required prior to Permit Inspection, Contractor shall notify Engineer, in writing, at least five working days prior to the date Contractor plans to have the work ready for structural observation. If the work is not ready for structural observation on the date indicated, Contractor shall reimburse Agency the cost of structural observer's visit to the Work site. If the work to be observed is substantially complete but

is found to need correction before approval by the structural observer, Contractor shall give notice of a new date, as required above.

### 3-6 THE CONTRACTOR'S REPRESENTATIVE.

Before starting the Work, the Contractor shall designate in writing a representative who shall have complete authority to act for it. An alternative representative may be designated as well. The representative or alternate shall be present at the Work site whenever work is in progress or whenever actions of the elements necessitate its presence to take measures necessary to protect the Work, persons, or property. Any order or communication given to this representative shall be deemed delivered to the Contractor. A joint venture shall designate only one representative and alternate. In the absence of the Contractor or its representative, instructions or directions may be given by the Engineer to the superintendent or person in charge of the specific work to which the order applies. Such order shall be complied with promptly and referred to the Contractor or its representative.

In order to communicate with the Agency, the Contractor's representative, superintendent, or person in charge of specific work shall be able to speak, read, and write the English language.

### 3-7 CONTRACT DOCUMENTS.

#### 3-7.1 General.

The Contractor shall keep at the work site a copy of the Plans and Specifications, to which the Engineer shall have access at all times.

The Plans, Specifications, and other Contract Documents shall govern the Work. The Contract Documents are intended to be complementary and cooperative. Anything specified in the Specifications and not shown on the Plans or shown on the Plans and not specified in the Specifications, shall be as though shown or specified in both.

The Plans shall be supplemented by such working drawings and shop drawings as are necessary to adequately control the Work.

The Contractor shall ascertain the existence of any conditions affecting the cost of the Work through reasonable examination of the work site prior to submitting the Bid.

Existing improvements visible at the work site, for which no specific disposition is made on the Plans, but which interfere with the completion of the Work, shall be removed and disposed of by the Contractor.

The Contractor shall, upon discovering any error or omission in the Plans or Specifications, immediately call it to the attention of the Engineer.

#### 3-7.1.1 Specifications Captions.

Captions accompanying specification parts, sections and paragraphs are for convenience of reference only and do not limit the content of such part, section, or paragraph.

The division of the Plans into parts and the division of the Specifications into divisions and sections are for the ease of reference only and does not imply the division of work between trades or subcontractors.

### 3-7.2 Precedence of Contract Documents.

If there is a conflict between any of the Contract Documents, the document highest in precedence shall control. The precedence shall be as follows:

- 1) Permits issued by jurisdictional regulatory agencies.
- 2) Change Orders and Supplemental Agreements; whichever occurs last.
- 3) Contract/Agreement.
- 4) Addenda.
- 5) Bid/Proposal.
- 6) Special Provisions.
- 7) Plans.
- 8) Standard Plans.
- 9) Standard Specifications.
- 10) Reference Specifications.

Detail drawings shall take precedence over general drawings.

## 3-8 SUBMITTALS.

### 3-8.1 General.

Submittals shall be provided, at the Contractor's expense, as required in this section, when required by the Plans or Special Provisions, or when requested by the Engineer.

Materials shall neither be furnished nor fabricated, nor shall any work for which submittals are required be performed, before the required submittals have been reviewed and accepted by the Engineer. Neither review nor acceptance of submittals by the Engineer shall relieve the Contractor from responsibility for errors, omissions, or deviations from the Contract Documents, unless such deviations were specifically called to the attention of the Engineer in the letter of transmittal. The Contractor shall be responsible for the correctness of the submittals.

The Contractor shall allow a minimum of 20 working days for review of submittals unless otherwise specified in the Special Provisions. Each submittal shall be accompanied by a letter of transmittal.

Payment for submittals shall be included in the Contract Unit Price or lump sum Bid price for the various Bid items.

### 3-8.2 Working Drawings.

Working drawings shall be of a size and scale to clearly show all necessary details.

Six copies and one reproducible shall be submitted. If no revisions are required, 3 of the copies will be returned to the Contractor. If revisions are required, the Engineer will return one copy along with the reproducible for resubmission. Upon acceptance, the Engineer will return 2 of the copies to the Contractor and retain the remaining copies and the reproducible.

Working drawings are required in the following subsections:

**TABLE 3-8.2**

Item	Subsection No.	Title	Subject
1	3-12.5.2	Sanitary Sewers	Sewage Bypass and Pumping Plan
2	3-12.6.3	Water Pollution Control	Storm Water Pollution Prevention Plan
3	3-12.6.6	Water Pollution Control	Dewatering Plan
4	5-7.2.2	Safety Orders	Shoring Plan
5	5-7.8	Steel Plate Covers	Thickness (Trench Width > 5'-3"(1.6 m))
6	300-3.2	Cofferdams	Falsework Plans
7	303-1.6.1	Falsework	
8	303-1.7.1	Placing Reinforcement	
9	303-3.1	Prestressed Concrete Construction	
10	304-1.1.2	Structural Steel	
11	307-1.1	Jacking Operations	Submittals
12	307-2.1	Tunneling Operations	
13	308-3	Microtunneling	
14	601-2	Temporary Traffic Control Plan	

Working drawings listed above as Items 4, 5, 6, 8, 9, 10, 11, 12, 13, and 14 shall be prepared by a Civil or Structural Engineer registered by the State of California.

### 3-8.3 Shop Drawings.

Shop drawings are drawings showing details of manufactured or assembled products proposed to be incorporated into the Work. Shop drawings are required in the subsections shown in Table 3-8.3 and as specified in the Special Provisions.

**TABLE 3-8.3**

Item	Subsection No.	Title	Subject
1	207-2.5	Joints	Reinforced Concrete Pipe
2	207-8.4	Joints	Vitrified Clay Pipe
3	304-1.1.1	Shop Drawings	Structural Steel
4	304-2.1	General	Metal Hand Railings

### 3-8.4 Supporting Information.

Supporting information is information required by the Specifications for the purposes of administration of the Contract, analysis for verification of conformance with the Specifications, the operation and maintenance of a manufactured product or system to be constructed as part of the Work, and other information as may be required by the Engineer. Six copies of the supporting information shall be submitted to the Engineer prior to the start of the Work unless otherwise specified in the Special Provisions or directed by the Engineer. Supporting information for

systems shall be bound together and include all manufactured items for the system. If resubmittal is not required, three copies will be returned to the Contractor.

Supporting information shall consist of the following and is required unless otherwise specified in the Special Provisions:

- a) List of subcontractors per 3-3.
- b) List of materials per 4-4.
- c) Certificates of Compliance per 4-5.
- d) Construction schedule per 6-1.
- e) Spill Prevention and Emergency Response Plan per 3-12.5.3.
- f) Confined Space Entry Program per 5-7.5.1.
- g) Lean concrete base mix designs per 200-4.
- h) Concrete mix designs per 201-1.1.
- i) Asphalt concrete job mix formulas and/or mix designs per 203-6.3.
- j) Pipeline layout diagrams per 207-2.1.
- k) Equipment and materials list per 700-1.
- l) Controller cabinet wiring diagrams per 701-17.2.2.
- m) Data, including, but not limited to, catalog sheets, manufacturer's brochures, technical bulletins, specifications, diagrams, product samples, and other information necessary to describe a system, product or item. This information is required for irrigation systems, street lighting systems, and traffic signals, and may also be required for any product, manufactured item, or system.

### 3-8.5 Installation Instructions.

When installation instructions for a pre-manufactured product are specified or referenced in the Contract Documents, the Contractor shall submit the following:

- a) One original or legal copy of the installation instructions referenced.
- b) When a manufacturer's installation instructions deviate from the Contract Documents, the Contractor shall submit a written statement from the manufacturer identifying the proposed deviations and the basis for such.
- c) Unless the proposed deviations are approved, installation shall conform to the requirements in the Contract Documents.
- d) The Engineer may waive the requirement for submitting installation instructions.

### 3-8.6 Manufacturer's Operation, Maintenance, and Warranty Instructions.

For each pre-manufactured product covered by a manufacturer's warranty, the Contractor shall submit 3 bound original or legal copies prior to acceptance of the Contract. When no instructions are submitted the Agency will presume no operational restrictions or maintenance procedures are required by the manufacturer as a condition for the manufacturer to honor the specified warranty.

### 3-8.7 Record Drawings.

The Contractor shall prepare and maintain a set of prints in the Engineer's Field Office on which the locations and description of all plumbing, mechanical, and electrical facilities, which were not detailed fully on the Plans, are marked in colored pencil. Such prints shall also indicate any authorized changes from the original Plans. Such prints shall be furnished to the Engineer before final Acceptance of the Work.

### 3-9 SUBSURFACE DATA.

Subsurface data shall include geotechnical reports, groundwater elevations, borings, soil analyses and characterization, and other such information included or referenced in the Special Provisions or provided to bidders prior to the deadline for submitting bids. Subsurface data only indicates conditions at the time and location of the test holes and to the depths indicated. Additional subsurface exploration may be performed by Bidders or the Contractor at their own expense.

If there is a difference between the groundwater elevation shown in the subsurface data and the groundwater elevation encountered during the Work, no additional payment will be made if the groundwater elevation encountered is at or above an elevation 1 foot below the conduit invert elevation or bottom elevation of other structures shown on the Plans unless Extra Work is required.

### 3-10 SURVEYING.

#### 3-10.1 Permanent Survey Markers.

The Contractor shall notify the Engineer at least 7 Days before starting work to allow for the preservation of survey monuments, lot stakes (tagged), and benchmarks. The Engineer, or the owner at its cost, shall file a Corner Record Form referencing survey monuments subject to disturbance in the Office of the County Surveyor prior to the start of construction and also prior to the completion of construction for the replacement of survey monuments. The Contractor shall not disturb survey monuments, lot stakes (tagged), or benchmarks without the consent of the Engineer or the owner on Private Contracts. The Contractor shall bear the expense of replacing any that may be disturbed without permission. Replacement shall be done only under the direction of the Engineer by a Licensed Land Surveyor or a Registered Civil Engineer authorized to practice land surveying within the state.

When a change is made in the finished elevation of the pavement of any roadway in which a permanent survey monument is located, the Contractor shall adjust the monument cover to the new grade within 7 Days of finished paving unless otherwise specified.

#### 3-10.2 Survey Service.

The Engineer will set only the horizontal and vertical control survey points shown on the Plans. These will be set prior to the commencement of construction. The Contractor shall preserve these points as well as any other surveys established by the Engineer for use by the Contractor for the duration of their usefulness. If any survey points established by Engineer are lost or disturbed and need to be replaced, such replacement shall be by the Engineer at the expense of the Contractor. The Contractor shall employ engineers or surveyors to perform adequate surveys and staking necessary to construct the Work to the lines, elevations and grades shown on the Plans and for the Engineer's use in checking such work. Copies of the field notes or diagrams used in setting stakes shall be promptly furnished to the Engineer.

### 3-10.2.1 Open Areas.

Where dimensions are not given on the Plans for parking lots, landscaped areas, or graded areas, distances shall be scaled. Unless otherwise indicated, straight grades and smooth vertical curves shall be set between indicated elevations. Finished surfaces shall be sloped to drain in order to eliminate ponding of water.

### 3-10.2.2 Utilities.

Section 6-4.1.1 requires the Contractor's cooperation during the relocation of utilities, which may require the setting of lines and grades when needed by utility owners performing relocations.

### 3-10.3 Contractor's Surveys.

Surveying by private engineers and surveyors on the Work shall conform to the quality and practice required by the Engineer.

#### 3-10.3.1 Errors in Surveys.

The Contractor is responsible for the accuracy of all surveys except those performed by the Engineer. To assure that a survey point set by the Engineer has not been disturbed since it was set and that it was accurately set, all surveys by the Contractor shall be based on at least two survey points set by the Engineer or by other governmental surveys, in accordance with good survey practice. Should discrepancies be found between such points, the Engineer shall be notified and construction shall not proceed until the discrepancy has been resolved.

### 3-10.4 Line and Grade.

All Work upon completion shall conform to the lines, elevations, and grades shown on the Plans.

### 3-10.5 Quantity Surveys.

The Engineer will perform all quantity surveys for payment purposes, however, in performing such quantity surveys, it may make use of surveys performed by the Contractor.

### 3-10.6 Payment for Surveys.

Payment for performing all of the surveying and staking as required by the Specifications and such additional surveying and staking as required by the Contractor will be made at the lump sum price set forth in the Proposal and shall be full compensation for furnishing all labor, equipment, instruments and materials necessary to perform the Work. If no bid item for surveying is included in the Proposal, the cost of surveying shall be included in the prices bid for other applicable items of work.

## 3-11 CONTRACT INFORMATION SIGNS.

The names of contractors, subcontractors, architects, or engineers, with their addresses and the designation of their particular specialties, may be displayed on removable signs. The size and location of such signs shall be subject to the Engineer's approval.

Commercial advertising matter shall not be attached or painted on the surfaces of buildings, fences, canopies, or barricades.

## 3-12 WORK SITE MAINTENANCE.

### 3-12.1 General.

Throughout all phases of construction, including suspension of the Work, and until acceptance per 3-14, the Contractor shall keep the Work site clean and free from rubbish and debris. Rubbish and debris collected on the Work site shall only be stored in roll-off, enclosed containers prior to disposal. Stockpiles of such will not be allowed.

When required by the Special Provisions, the Contractor shall provide a self-loading motorized street sweeper equipped with a functional water spray system. The sweeper shall clean all paved areas within the Work site and all paved haul routes at least once each working day.

The Contractor shall ensure there is no spillage along haul routes. Any such spillage shall be removed immediately and the area cleaned.

Should the Contractor fail to keep the Work site free from rubbish and debris, the Engineer may suspend the Work per 6-6 until the condition is corrected.

### 3-12.2 Air Pollution Control.

The Contractor shall not discharge smoke, dust, equipment exhaust, or any other air contaminants into the atmosphere in such quantity as will violate any Federal, State, or local regulations.

The Contractor shall also abate dust nuisance by cleaning, sweeping and spraying with water, or other means as necessary. The use of water shall conform to 3-12.6.

### 3-12.3 Noise Control.

Noise generated from the Contractor's operations shall be controlled as specified in the Special Provisions.

### 3.12.4 Storage of Equipment and Materials.

#### 3-12.4.1 General.

Materials and equipment shall be removed from the Work site as soon as they are no longer necessary. Before inspection by the Engineer for acceptance, the Work site shall be cleared of equipment, unused materials, and rubbish so as to present a satisfactory clean and neat appearance.

Excess excavated material shall be removed from the Work site immediately unless otherwise specified in the Special Provisions.

Forms and form lumber shall be removed from the Work site as soon as practicable after stripping.

#### 3-12.4.2 Storage in Public Streets.

Construction materials and equipment shall not be stored in streets, roads, or highways for more than 5 days after unloading unless otherwise specified in the Special Provisions or approved by the Engineer. All materials or equipment not installed or used in construction within 5 days after unloading shall be stored at a location approved by the Engineer.

Excavated material, except that which is to be used as backfill in the adjacent trench, shall not be stored in public streets unless otherwise specified in the Special Provisions or approved by the Engineer. Immediately after placing backfill, all excess material shall be removed from the Work site.

### 3-12.5 Sanitary Sewers.

#### 3-12.5.1 General.

The flow of sewage shall not be interrupted. Should the Contractor disrupt the operation of existing sanitary sewer facilities, or should disruption be necessary for performance of the Work, the Contractor shall bypass the sewage flow around the Work. Sewage shall be conveyed in closed conduits and disposed of in a sanitary sewer system. Sewage shall not be permitted to flow in trenches nor be covered by backfill.

Whenever sewage bypass and pumping is required by the Plans or Specifications, or the Contractor so elects to perform, the Contractor shall submit per 3-8.2 a working drawing conforming to 3-12.5.2 detailing its proposed plan of sewage bypass and pumping.

#### 3-12.5.2 Sewage Bypass and Pumping Plan.

The plan shall indicate the locations and capacities of all pumps, sumps, suction and discharge lines. Equipment and piping shall be sized to handle the peak flow of the section of sewer line to be bypassed and pumped. Equipment and piping shall conform to 5-9, the Plans, and the Special Provisions. Bypass piping, when crossing areas subject to traffic loads, shall be constructed in trenches with adequate cover and otherwise protected from damage due to traffic. Lay-flat hose or aluminum piping with an adequate casing and/or traffic plates may be allowed if so approved by the Engineer. Bypass pump suction and discharge lines that extend into manholes shall be rigid hose or hard pipe. Lay flat hose will not be allowed to extend into manholes. The Contractor shall provide a backup bypass pumping system in case of malfunction. The backup bypass system shall provide 100 percent standby capability and be in place and ready for immediate use.

Each standby pump shall be a complete unit with its own suction and discharge piping. In addition to the backup system, the Contractor shall furnish and operate vacuum trucks when required by the Plans or Special Provisions.

#### 3-12.5.3 Spill Prevention and Emergency Response Plan.

The Contractor shall prepare and submit per 3-8.2 a spill prevention and emergency response plan. The plan shall address implementation of measures to prevent sewage spills, procedures for spill control and containment, notifications, emergency response, cleanup, and spill and damage reporting.

The plan shall account for all storm drain systems and water courses within the vicinity of the Work which could be affected by a sewage spill. Catch basins that could receive spilled sewage shall be identified unless otherwise specified in the Special Provisions, these catch basins shall be sealed prior to operating the bypass and pumping system. The Contractor shall remove all material used to seal the catch basins when the bypass and pumping system operations are complete.

The Contractor shall be fully responsible for containing any sewage spillage, preventing any sewage from reaching a watercourse, recovery and legal disposal of any spilled sewage, any

finest or penalties associated with the sewage spill imposed upon by the Agency and/or the Contractor by jurisdictional regulatory agencies, and any other expenses or liabilities related to the sewage spill.

### 3-12.6 Water Pollution Control.

The Contractor shall prevent, control, and abate discharges of pollutants from the construction site in order to protect the storm drain system, which includes pipes, channels, streams, waterways, and other bodies of water, by the construction, installation or performance of water pollution control measures as shown on the Stormwater Pollution Control Plan (SWPCP) or Stormwater Pollution Prevention Plan (SWPPP) depending on the land area affected by the construction activity. The Contractor shall ensure compliance with the current State NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activity (General Construction Permit), NPDES No. CAS000002 and current Ventura County NPDES Municipal Separate Storm Sewer System (MS4) Permit No. CAS004002.

#### 3-12.6.1 Compliance with NPDES General Construction Permit.

##### 3-12.6.1.1 Construction Sites.

If the Work involves construction activity that results in soil disturbance of one acre or more of total land area, or results in soil disturbances of less than one acre but is a part of a work area larger than one acre, the Contractor shall comply with the requirements of the General Construction Permit NPDES No. CAS000002. Construction activity includes clearing, grading, excavation, stockpiling, and reconstruction of existing facilities involving removal and replacement. Construction activity does not include routine maintenance such as, maintenance of original line and grade, hydraulic capacity, or original purpose of the facility.

The Contractor shall comply with requirements of the General Construction Permit (NPDES No. CAS000002), obtained by the Agency, including a site-specific Stormwater Pollution Prevention Plan (SWPPP) for the Work to be developed by Qualified SWPPP Developer (QSD) and implemented by the Qualified SWPPP Practitioner (QSP). After July 1, 2010, the Agency will electronically file all required Permit Registration Documents (PRDs) through the State Water Board's Stormwater Multi-Application and Report Tracking System (SMARTS) website, as required prior to the commencement of construction activity. PRDs consist of the Notice of Intent (NOI), Risk Assessment, Post-Construction Calculations, a Site Map, the SWPPP, a signed certification statement by the Legally Responsible Party (LRP), and the first annual fee. For the Permit application, the Contractor shall submit to Project Manager the following:

- The completed site-specific Risk Assessment
- Post-construction calculations if applicable for the project, and
- Site-specific SWPPP developed in accordance with applicable Permits.

##### 3-12.6.1.2 Linear Utility Projects.

Contractor shall comply with the requirements of the General Construction Permit NPDES No. CAS000002 for Linear Underground/Overhead projects (LUPs) one acre or greater.

### 3-12.6.2 Compliance with NPDES MS4 Permit.

#### 3-12.6.2.1 *Construction Sites Less Than One Acre.*

The Contractor shall ensure implementation of an effective combination of erosion and sediment control Best Management Practices (BMPs) listed in Table 6 of the Ventura County NPDES MS4 Permit. The Contractor shall develop and implement a Storm Water Pollution Control Plan (SWPCP).

#### 3-12.6.2.2 *Construction Sites One Acre but Less Than 5 Acres.*

The Contractor shall ensure implementation of an effective combination of appropriate erosion and sediment control BMPs from Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) of the Ventura County NPDES MS4 Permit in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) to prevent erosion and sediment loss, and the discharge of construction wastes. For all construction sites one acre or greater, the Contractor shall submit the SWPPP to the Agency for review and certification as the Local SWPPP.

#### 3-12.6.2.3 *Construction Sites 5 Acres and Greater.*

The Contractor shall ensure implementation of an effective combination of the following BMPs in Tables 8 (BMPs at Construction sites 5 acres or greater) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) and Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) at all construction sites 5 acres and greater to prevent erosion and sediment loss, and the discharge of construction wastes. For all construction sites one acre or greater, the Contractor shall submit the SWPPP to the Agency for review and certification as the Local SWPPP.

#### 3-12.6.2.4 *Enhanced Construction BMP Implementation.*

Construction sites located on hillsides, adjacent or directly discharging to CWA 303(d) listed waters for siltation or sediment, and directly adjacent to Environmentally Sensitive Areas are termed "high risk sites." Contractor shall implement enhanced practices that preclude impacts to water quality posed by the high risk sites.

Contractor shall ensure that high risk sites are inspected by the Qualified SWPPP Developer, Qualified SWPPP Practitioner, or Certified Professionals in Erosion and Sediment Control (CPESC) at the time of BMP installation, at least weekly during the wet season, and at least once each 24 hour period during a storm event that generates runoff from the site, to identify BMPs that need maintenance to operate effectively, that have failed or could fail to operate as intended.

During the wet season, the area of disturbance shall be limited to the area that can be controlled with an effective combination of erosion and sediment control BMPs. Enhanced sediment controls should be used in combination with erosion controls and should target portions of the site that cannot be effectively controlled by standard erosion controls described above. Effective sediment and erosion control BMPs proposed by the Contractor shall include the BMPs listed in Table 9 (Enhanced Construction BMP Implementation) of the NPDES MS4 Permit. The Contractor shall implement the BMPs listed in Table 9 unless shown unnecessary. Also, the Contractor shall retain records of the inspection and a determination and rationale of the BMPs selected to control runoff.

### 3-12.6.3 Plan.

#### 3-12.6.3.1 *Stormwater Pollution Control Plan.*

The SWPCP, required for construction projects less than one acre, shall be prepared in accordance with the requirements of current Ventura County NPDES MS4 Permit No. CAS004002 and County Ordinance No. 4142.

#### 3-12.6.3.2 *Stormwater Pollution Prevention Plan.*

The SWPPP, required for construction projects one acre or greater, shall be prepared in accordance with the requirements of the state's General Construction Permit NPDES Permit CAS000002, Ventura Countywide Stormwater Quality Management Program, NPDES MS4 Permit No. CAS004002, and County Ordinance No. 4142.

#### 3-12.6.3.3 *Best Management Practices.*

The SWPCP/SWPPP shall identify potential pollutant sources on the construction site that may affect the quality of discharges, whether non-stormwater or stormwater, from the site and design the use and placement of water pollution control measures, BMPs, to effectively prohibit the entry of pollutants from the site into the storm drain system during construction. At a minimum, and depending on the size of the project area, the SWPCP/SWPPP will include all appropriate minimum BMPs as required by the Ventura Countywide Stormwater Quality Management Program, NPDES MS4 Permit No. CAS004002 (Tables 6 through 9). The SWPCP/SWPPP must utilize the measures recommended in the California Stormwater Quality Association (CASQA) Stormwater BMPs Handbook for Construction (January 2003 version until July 1, 2010 and 2009 version after July 1, 2010). Starting July 1, 2010 SWPPP shall be prepared by QSD as defined in the NPDES Permit CAS000002. The Contractor shall complete, sign and submit the SWPCP/SWPPP for review and final approval by the Project Engineer, prior to issuance of the Notice to Proceed as provided in 6-3.2.1.

#### 3-12.6.3.4 *SWPPP Approval.*

For all construction projects one acre and greater, the Contractor shall submit the SWPPP to the Agency for review and certification as Local SWPPP in accordance with NPDES MS4 Permit No. CAS004002 prior to the Notice to Proceed as provided in 6-3.2.1.

### 3-12.6.4 Measures.

All water pollution control measures shall conform to the requirements of the submitted SWPCP/SWPPP. If circumstances during the course of construction require changes to the original SWPCP/SWPPP, a revised SWPCP/SWPPP shall be promptly submitted to the Project Manager in each instance. The SWPPP shall be amended or revised by QSD. A copy of the current SWPCP/SWPPP including revisions and amendments shall be kept at the site to ensure that field personnel have access to the current document, at all times. If measures being taken are inadequate to control water pollution effectively, the Project Manager may direct the Contractor to revise the operations and no further work shall be performed until adequate water pollution control measures are implemented. Effective September 2, 2011, implementation of the SWPPP shall be overseen by the Contractor's QSP as defined in the General Construction Permit NPDES No. CAS000002. All work installed by the Contractor in connection with the SWPCP/SWPPP but not specified to become a permanent part of the Work shall be removed and the site restored in so far as practical to its original condition prior to completion of the Work.

#### *3-12.6.4.1 Post-Construction Standards.*

Contractor shall ensure that applicable post-construction standards are implemented to meet applicable project requirements of the Ventura County NPDES MS4 Permit and General Construction Permit NPDES No. CAS000002 (effective September 2, 2012).

#### *3-12.6.4.2 Active Treatment Systems.*

Contractor shall comply with requirements of the General Construction Permit NPDES No. CAS000002 for active treatment systems as applicable.

### **3-12.6.5 Monitoring and Reporting.**

#### *3-12.6.5.1 Monitoring.*

In accordance with the General Construction Permit NPDES No. CAS000002, the Contractor shall develop and implement monitoring program for Risk Level 2 and 3 sites. In addition, at Risk Level 3 sites, contractor shall perform receiving water monitoring to meet Permit requirements.

#### *3-12.6.5.2 Reporting.*

The Contractor shall ensure that all submittals and reports are prepared and submitted to the RWQCB in accordance with the applicable Permits. At minimum the reports will include Annual Report (for applicable projects due September 1st), Rain Event Action Plan (due 48 hrs prior to the rain event for the applicable projects), Numeric Action Levels (NAL) Exceedance Report (as required), Numeric Effluent Limitations (NELs) Violation Report (within 24 hours after NEL exceedance is identified). Contractor shall submit required reports to the Project Manager for review and approval prior to submittal to the RWQCB.

### **3-12.6.6 Dewatering Activities.**

All dewatering activities shall be performed in accordance with applicable regulatory requirements issued by the Los Angeles Regional Water Quality Control Board, including specific requirements contained in the Waste Discharge Requirements (WDR) when issued for the Work.

Dewatering shall be performed by the Contractor when specifically required by the Plans or Specifications, and as necessary for construction of the Work. Dewatering shall be performed in conformance with all applicable local, state and Federal laws and permits issued by jurisdictional regulatory agencies. Permits necessary for treatment and disposal of accumulated water shall be obtained by the Contractor or the Agency as specified in the Special Provisions. Accumulated water shall be treated prior to disposal if so specified in the Special Provisions or required by a permit. The Contractor shall submit a Working Drawing and related supporting information detailing its proposed plan and methodology of dewatering and treatment and disposal of accumulated water.

The plan shall identify the location, type and size of dewatering devices and related equipment, the size and type of materials composing the collection system, the size and type of equipment to be used to retain and, if required, treat accumulated water, and the proposed disposal locations. If the proposed disposal location is a sanitary sewer, the Contractor shall submit to the Engineer written evidence of permission from the owner. If the proposed disposal location is a storm drain system or receiving body of water, the Contractor shall submit written evidence of permission from the owner of the storm drain system and, if not obtained by the Agency, original signed permits from jurisdictional regulatory agencies or written evidence that such permits are not required.

### 3-12.6.7 Payment.

The Contract lump sum price for water pollution control shall include full compensation for furnishing all labor, materials, tools, equipment, services and incidentals and for doing all work involved in water pollution control as specified herein. Payment for water pollution control will be made as the Work proceeds and is in compliance with the approved Water Pollution Control Plan, on the following basis.

Partial payment estimate (excluding mobilization & water pollution control payments) as a percentage of the original Contract price (excluding the mobilization & water pollution control Bid items).		Cumulative amount of water pollution control pay item earned is the lesser of the amounts as computed by these two columns.	
Equal to or greater than	Less than	Percentage of water pollution control pay item	Percentage of the original Contract total.
5	10	10	1
10	20	20	2
20	50	50	3
50	Completion of Work	75	5
Completion of Work		100	

Where no Bid item is provided for water pollution control, payment for water pollution control shall be considered to be included in the other Bid items.

### 3-12.7 Diversion, Control, and Removal of Water.

#### 3-12.7.1 General.

This section covers the diversion, control and removal of all water entering into the construction area or otherwise affecting construction activities.

#### 3-12.7.2 Requirements.

All permanent construction shall be performed in a site free from water unless otherwise provided for in the Special Provisions. The Contractor shall construct, maintain, and operate all necessary cofferdams, pumps, channels, flumes, drains, well points and/or other temporary diversion, protective, and water removal works required for diversion, control and removal of all water, whether surface or groundwater, whatever its source, during construction.

Inundation of partially completed Work due to lack of control during non-working periods will not be permitted, and may be cause for requiring removal and replacement of Work already completed.

The Contractor shall be responsible for obtaining the use of any property in addition to that provided for in the Plans and Specifications, which may be required for the diversion, protective, and water removal works so as not to create a hazard to persons or property or to interfere with the water rights of others.

It shall be understood and agreed that the Contractor shall hold the Agency and the Engineer harmless from legal action taken by any third party with respect to construction and operations of the diversion and protective works.

#### 3-12.7.3 Diversion and Control Works.

Prior to beginning of work involving diversion, control and removal of water, the Contractor shall submit a water control plan to the Engineer in accordance with 3-8.2. In the event circumstances during the course of construction require changes to the original water control plan, a revised water control plan shall be promptly submitted to the Engineer in each instance. No responsibility shall accrue to the Engineer or the Agency as a result of the plan or as a result of knowledge of the plan.

Construction and operation of the diversion, control and removal works shall be in accordance with the water control plan submitted, except deviations therefrom may be specifically approved by the Engineer.

All works installed by the Contractor in connection with dewatering, control, and diversion of water but not specified to become a permanent part of the Work, shall be removed and the site restored, insofar as practical, to its original condition prior to completion of construction or when directed by the Engineer.

#### 3-12.7.4 Payment.

No separate Bid item is included. Payment for this item of Work will be considered to be included in the payments made for other items of Contract Work to which water control is incidental.

#### 3-12.8 Drainage Control.

The Contractor shall maintain drainage within and through the Work areas. Earth dams will not be permitted in paved areas. Temporary dams of sandbags, asphaltic concrete or other acceptable material will be permitted when necessary to protect the Work, provided their use does not create a hazard or nuisance to the public. Such dams shall be removed from the site as soon as their use is no longer necessary.

#### 3-12.9 Final Cleaning.

At the completion of the Work, the Contractor shall remove all waste materials and rubbish from and about the project, as well as all tools, construction equipment, temporary facilities, machinery, and surplus materials.

At completion of construction and just prior to final inspection, the Contractor shall thoroughly clean the interior and exterior of the buildings, including hardware, floors, roofs, sills, ledges, glass, or other surfaces where debris, plaster, paint, spots, and dirt or dust may have collected. All glass shall be washed clean and polished. Remove all grease, stains, labels, fingerprints, and other foreign materials from interior and exterior surfaces. Repair, patch, and touch up marred surfaces to match adjacent finishes.

The Contractor shall use only experienced workmen or professional cleaners for final cleaning. The Contractor shall use only cleaning materials recommended by the manufacturer of the surface to be cleaned and use cleaning materials only on surfaces recommended by the cleaning material manufacturer.

The Contractor shall broom-clean all paved surfaces and rake-clean other surfaces of grounds.

The Contractor shall replace air conditioning filters if units were operated during construction, and clean all ducts, blowers, and coils if air conditioning units were operated without filters during construction.

After cleaning, the Contractor shall maintain the building in a clean condition until it is accepted by the Agency.

### 3-13 RECYCLABLE CONSTRUCTION & DEMOLITION WASTES.

Ventura County Ordinance Code Section, 4421 et seq, requires that if any recyclable solid wastes or marketable reusable materials will be generated on the site of the Work within the unincorporated areas of Ventura County, the Contractor shall prepare a Construction & Demolition Debris Waste Diversion Plan and submit it to the Ventura County Public Works Agency, Water & Sanitation Department - Integrated Waste Management Division (IWMD). The Contractor shall prepare and file Construction & Demolition Debris Waste Diversion Reporting Forms as required by the IWMD.

For projects within the unincorporated areas of Ventura County, the Contractor shall submit an IWMD Form B-Recycling Plan approved by IWMD prior to issuance of the Notice to Proceed as provided in 6-3.2.1.

For projects within the unincorporated areas of Ventura County, the Contractor shall submit an IWMD Form C-Reporting Form approved by IWMD prior to the Engineer preparing the final estimate as provided in 7-3.2.

If the site of the Work is within an incorporated city, the Contractor shall comply with all the recycling, solid waste diversion, and hauling requirements of that incorporated city.

### 3-14 COMPLETION, ACCEPTANCE AND WARRANTY.

#### 3-14.1 Completion and Acceptance.

Acknowledgment of completion of the Work will occur prior to Acceptance by the Agency. Acceptance will only occur after all Contract requirements have been fulfilled, such as training, submission of warranties, maintenance manuals, record drawings, Release on Contract and the like. Acceptance by the Agency will occur when the Engineer signs the Notice of Completion.

The Work will be inspected by the Engineer promptly upon receipt of the Contractor's written assertion that the Work has been completed. If, in the Engineer's judgment, the Work has been completed in accordance with the Plans and Specifications, the Engineer will acknowledge completion of the Work. Completion of the Work, as used above, shall include the Contractor showing evidence of having received an occupancy clearance from Building and Safety, or other permit issuing agency, when a building, plumbing electrical, grading, or other permit is required for the Work. The Engineer will, in acknowledging completion of the Work, set forth in writing the date when the Work was completed. This will be the date when the Contractor is relieved from responsibility to protect the Work. This will also be the date to which liquidated damages will be computed.

#### 3-14.2 Warranty and Correction.

##### 3-14.2.1 Warranty.

The Contractor warrants to the Agency that materials and equipment furnished under the Contract will be new, unless otherwise specified in the Contract Documents, and of good quality, that the Work will be free from defects in materials and workmanship and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective by the Agency. This warranty excludes damage or defect caused by abuse (other than by the Contractor or those under the control of the Contractor), modifications not executed by the Contractor, or improper or insufficient maintenance. This warranty excludes normal wear and tear. Nothing in this warranty is intended to limit any manufacturer's warranty which provides the Agency with greater warranty rights.

#### 3-14.2.2 Correction Period.

For a period of one (1) year from the date of acceptance of the Work by the Agency, the Contractor shall repair or replace any defective workmanship or materials or Work not in conformance with the Contract Documents after notice to do so from the Engineer, and within the time specified in the notice. If the Contractor fails to make such repair or replacement within the time specified in the notice, the Agency may perform the repair or replacement and the Contractor and the Contractor's sureties shall be liable for the cost thereof. The one (1) year period referenced in this section applies only to the Contractor's obligation to repair or replace defective workmanship or materials or Work not in conformance with the Contract Documents and is not intended to constitute a period of limitations for any other rights or remedies the Agency may have regarding the Contractor's other obligations under the Contract Documents.

#### 3-14.3 No Waiver of Legal Rights.

The Agency shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and Acceptance of the Work and payment therefor from showing the true amount and character of the Work performed and materials furnished by the Contractor, nor from showing that any such measurement, estimate, or certificate is untrue or is incorrectly made, nor that the Work or materials do not in fact conform to the Contract.

The Agency shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the Contractor or its sureties, or both, such damages as it may sustain by reason of the Contractor's failure to comply with the terms of the Contract.

Neither the Acceptance by the Engineer or by its representative, nor any payment for or Acceptance of the whole or any part of the Work, nor any extension of time, nor any possession taken by the Engineer shall operate as a waiver of any portion of the Contract or of any power herein reserved, or of any right to damages.

A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

#### 3-14.4 Landscape Maintenance Period.

Final Acceptance of the Contract shall follow the satisfactory completion of all Contract Work, including the landscape maintenance period if one is specified.

#### 3-14.5 Non-complying Work.

Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the Agency, shall constitute an Acceptance of Work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

#### 3-14.6 Written Warranties.

The Contractor shall obtain and deliver to the Engineer all written warranties required to be furnished by the Specifications. Each of such warranty shall be underwritten by the Contractor for the full period prescribed therein, and shall bear its endorsement to such effect.

## **SECTION 4 - CONTROL OF MATERIALS**

### **4-1 GENERAL.**

All materials, parts, and equipment furnished by the Contractor in the Work shall be new, high grade, and free from defects. Quality of work shall be in accordance with the generally accepted standards. Material and work quality shall be subject to the Engineer's approval.

Material and work quality not conforming to the requirements of the Specifications shall be considered defective and will be subject to rejection. Defective work or material, whether in place or not, shall be removed immediately from the site by the Contractor, at its expense, when so directed by the Engineer.

If the Contractor fails to replace any defective or damaged work or material after reasonable notice, the Engineer may cause such work or materials to be replaced. The replacement expense will be deducted from the amount to be paid to the Contractor.

Used or secondhand materials, parts, and equipment may be used only if permitted by the Specifications.

#### **4-1.1 Materials Furnished by Agency.**

Materials furnished by the Agency will be available at locations designated in the Special Provisions or if not designated in the Special Provisions, they will be delivered to a single location of Agency's choice within the project area. They shall be hauled to the site of installation by the Contractor at its expense, including any necessary loading and unloading that may be involved. The cost of handling and placing materials furnished by the Agency shall be considered as included in the price paid for the Contract item involving such furnished materials.

The Contractor will be held responsible for all materials furnished to it, and it shall pay all demurrage and storage charges. Furnished materials, after delivery to Contractor, lost or damaged from any cause whatsoever shall be replaced by the Contractor. The Contractor will be liable to the Agency for the cost of replacing lost or damaged furnished material and such costs may be deducted from any monies due or to become due the Contractor.

### **4-2 PROTECTION.**

The Contractor shall provide and maintain storage facilities and employ such measures as will preserve the specified quality and fitness of materials to be used in the Work. Stored materials shall be reasonably accessible for inspection. The Contractor shall also adequately protect new and existing work and all items of equipment for the duration of the Contract.

The Contractor shall not, without the Agency's consent, assign, sell, mortgage, hypothecate, or remove equipment or materials which have been installed or delivered and which may be necessary for the completion of the Contract.

### **4-3 INSPECTION.**

#### **4-3.1 General.**

Unless otherwise specified, inspection is required at the source for asphalt concrete pavement mixtures, structural concrete, metal fabrication, metal casting, welding, concrete pipe manufacture, protective coating application, and similar shop or plant operations. Additional materials and fabricated items which require inspection at the source shall be as specified in the Special Provisions.

Steel pipe in sizes less than 18 inches, vitrified clay and cast iron pipe in all sizes are acceptable upon certification as to compliance with the Specifications, subject to sampling and testing by the Agency. Standard items of equipment such as electric motors, conveyors, elevators, plumbing fixtures, etc., are subject to inspection at the Work site only. Special items of equipment such as designed electrical panel boards, large pumps, sewage plant equipment, etc., are subject to inspection at the source, normally only for performance testing. The Specifications may require inspection at the source for other items not typical of those listed in this section.

#### 4-3.2 Inspection by the Agency.

The Agency will provide all inspection and testing laboratory services within 50 miles of the geographical limits of the Agency. Inspection and testing laboratory services beyond this radius or outside the continental United States shall be provided by the Contractor and approved by the Engineer.

#### 4-3.3 Inspection of Materials Not Locally Produced.

When the Contractor intends to purchase materials, fabricated products, or equipment from sources located more than 50 miles outside the geographical limits of the Agency, an inspector or accredited testing laboratory (approved by the Engineer), shall be engaged by the Contractor at its expense, to inspect the materials, equipment, or process. This approval shall be obtained before producing any material or equipment. The inspector or representative of the testing laboratory shall evaluate the materials for conformance with the Plans and Specifications. The Contractor shall forward reports required by the Engineer. No materials or equipment shall be shipped nor shall any processing, fabrication or treatment of such materials be done without proper inspection by the approved agent. Approval by said agent shall not relieve the Contractor of responsibility for complying with the Contract requirements.

### 4-4 TESTING.

Before incorporation in the Work, the Contractor shall submit samples of materials, as the Engineer may require, at no cost to the Agency. The Contractor, at its own expense, shall deliver the materials for testing to the place and at the time designated by the Engineer. Unless otherwise provided, all initial testing and a reasonable amount of retesting shall be performed under the direction of the Engineer, and at no expense to the Contractor. If the Contractor is to provide and pay for testing, the Specifications will so state.

The Contractor shall notify the Engineer in writing, at least 15 Days in advance, of its intention to use materials for which tests are specified, to allow sufficient time to perform the tests. The notice shall name the proposed supplier and source of material.

If the notice of intent to use is sent before the materials are available for testing or inspection, or is sent so far in advance that the materials on hand at the time will not last but will be replaced by a new lot prior to use on the Work, it will be the Contractor's responsibility to re-notify the Engineer when samples which are representative may be obtained.

Third party independent testing and quality control testing shall be performed in United States.

### 4-5 CERTIFICATE OF COMPLIANCE.

The Engineer may require certificates of compliance with the Specifications for materials or manufactured items produced outside of the Work site. Such certificates will not relieve the Contractor from the requirements of providing material and manufactured items complying with the Specifications even though they have been incorporated into the Work.

The Engineer may waive materials testing requirements of the Specifications and accept the manufacturer's written certification that the materials to be supplied meet those requirements. Materials test data may be required as part of the certification.

Materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The submission of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material into the Work which conforms to the requirements of the Contract Documents, and any material not conforming to the requirements will be subject to rejection by the Engineer whether in place or not.

#### 4-6 TRADE NAMES.

The Contractor may supply any of the materials specified or offer an equivalent. The Engineer shall determine whether the material offered is equivalent to that specified. Adequate time shall be allowed for the Engineer to make this determination.

Whenever any particular material, process, or equipment is indicated by patent, proprietary or brand name, or by name of manufacturer, such wording is used for the purpose of facilitating its description and shall be deemed to be followed by the words or equal. A listing of materials is not intended to be comprehensive, or in order of preference. The Contractor may offer any material, process, or equipment considered to be equivalent to that indicated. The substantiation of offers shall be submitted as provided in the Contract Documents.

The Contractor shall, at its expense, furnish data concerning items offered by it as equivalent to those specified. The Contractor shall have the material tested as required by the Engineer to determine that the quality, strength, physical, chemical, or other characteristics, including durability, finish, efficiency, dimensions, service, and suitability are such that the item will fulfill its intended function.

Test methods shall be subject to the approval of the Engineer. Test results shall be reported promptly to the Engineer, who will evaluate the results and determine if the substitute item is equivalent. The Engineer's findings shall be final. Installation and use of a substitute item shall not be made until approved by the Engineer.

If a substitute offered by the Contractor is not found to be equal to the specified material, the Contractor shall furnish and install the specified material.

The specified Contract completion time shall not be affected by any circumstance developing from the provisions of this section.

##### 4-6.1 Compatibility with Design.

Where the size, configuration, weight, fastening locations, fastening strength, utility rough-in locations, and utility capacities of equipment or devices offered by the Contractor as equivalents do not conform to those provided for in the Contract Documents or those which are necessary for equipment or devices indicated by brand names, the Contractor shall bear all costs of redesign and changes in construction necessary to adapt the offered equipment or device to the Work.

Equipment or devices will not be considered "equal" where the life cycle cost of operation, utilities and maintenance of the offered alternate is greater than those listed by brand names. Life cycle costs shall mean utility charges (demand and usage charges), maintenance, operating personnel and replacement (equipment, installation and down time expenses) all reduced to an average annual rate using the current interest rate earned on funds invested by the County Treasurer.

#### 4-6.2 Trade Names Listed.

Where the Agency has listed products by brand or trade name on the Plans or in the Specifications, or both, this shall not be construed as meaning every product may be used without furnishing shop drawings, without redesign of the facility or without a change in utility rough-in requirements.

Where use of products listed on the Plans or in the Specifications, or both, or where use of a substitute proposed as an "equal" product requires shop drawings, redesign of the facility, or revisions in the size and location of rough-in utility connections, or in connecting work, the Contractor shall provide any necessary shop drawings, or shall cause the preparation of any necessary redesign or revisions to the Plans at its own expense and shall bear the full cost of any necessary additional construction or reconstruction work. No work described in shop drawings, a redesign, or a revision to the Plans shall be undertaken until such shop drawings, redesign, or revisions have been approved by the Engineer. Any proposed redesign or revision to the Plans shall be accompanied by complete computations and details prepared by an appropriate licensed design professional.

#### 4-7 WEIGHING AND METERING EQUIPMENT.

Scales and metering equipment used for proportioning materials shall be inspected for accuracy and certified within the past 12 months by the State of California Department of Food and Agriculture, Division of Measurement Standards, Registered Service Agency.

The accuracy of the work of a scale service agency, except as stated herein, shall meet the standards of the Business and Professions Code and the Code of Regulations pertaining to weighing devices. A Certificate of Compliance shall be presented, prior to operation, to the Engineer for approval and shall be renewed whenever required by the Engineer at no cost to the Agency.

Scales shall be arranged so they may be read easily from the operator's platform or area. They shall indicate the true net weight without the application of any factor. The figures of the scales shall be clearly legible. Scales shall be accurate to within 1 percent when tested with the plant shut down. Weighing equipment shall be so insulated against vibration or moving of other operating equipment in the plant area that the error in weighing with the entire plant running will not exceed 2 percent for any setting nor 1.5 percent for any batch.

#### 4-8 CALIBRATION OF TESTING EQUIPMENT.

Testing equipment, such as, but not limited to pressure gages, metering devices, hydraulic systems, force (load) measuring instruments, and strain- measuring devices shall be calibrated by a testing agency acceptable to the Engineer at intervals not to exceed 12 months and following repairs, modification, or relocation of the equipment. Calibration certificates shall be provided when requested by the Engineer.

## **SECTION 5 – LEGAL RELATIONS AND RESPONSIBILITIES**

### **5-1 LAWS AND REGULATIONS.**

The Contractor shall keep itself fully informed of State and national laws and County and municipal ordinances and regulations which in any manner affect those employed in the Work or the materials used in the Work or in any way affect the conduct of the Work. The Contractor shall at all times observe and comply with such laws, ordinances, and regulations.

#### **5-1.1 Mined Materials.**

Mined material from California surface mines, used on the Work, shall be from a mine identified in the list published by the California Department of Conservation (referred to as 3098 List), as required by Public Contract Code 20676. This list is available on the Internet at:

<https://filerequest.conservation.ca.gov/RequestFile/79092>

### **5-2 SPECIAL NOTICES.**

When specified or directed by the Engineer, any notice required to be served in accordance with this subsection shall be in writing, dated, and signed by the Contractor or the Engineer. Such notices shall be served by any of the following methods:

- a) Personal delivery with proof of delivery which may be made by declaration under penalty of perjury by any person over the age of 18 years. The proof of delivery shall show that delivery was performed in accordance with these provisions. Service shall be effective on the date of delivery. Notices given to the Contractor by personal delivery may be made to the Contractor's authorized representative at the Work site; or
- b) Certified mail addressed to the mailing address of the recipient postage prepaid; return receipt requested. Service shall be effective on the date of the receipt of the mailing.

Simultaneously, the Agency may send the same notice by regular mail. If a notice that is sent by certified mail is returned unsigned, then delivery shall be effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

### **5-3 LABOR.**

#### **5-3.1 General.**

The Contractor, its agents, and employees shall be bound by and comply with applicable provisions of the Labor Code and Federal, State, and local laws related to labor.

Any worker found by the Engineer to be incompetent, intemperate, troublesome, disorderly, or otherwise objectionable, or who fails to perform the Work properly and acceptably, shall be immediately removed from the Work site by the Contractor and shall not be reemployed in the performance on the Work.

##### **5-3.1.1 Special Qualifications.**

Where the Engineer determines certain portions of the Work require experience, training, certification or other special qualifications that may not be possessed by the average

journeyperson, such portions of the Work will be specifically identified in the Special Provisions and the special qualifications identified.

When work requiring special qualifications is being performed, a person with such qualifications must be in immediate charge of the work. The person may be a lead journeyperson, foreperson or trade superintendent. The general superintendent or a foreperson who is not specifically assigned to the area where the identified work is being performed will not be considered to be in immediate charge of the work.

Written certification of the required qualifications shall be furnished to the Engineer at least one week prior to the time work is commenced on the work requiring such qualifications. Such certification is subject to review and acceptance by the Engineer. If, during performance of work requiring special qualifications, the qualified person becomes temporarily or permanently unavailable to the Contractor, work shall not proceed until a qualified replacement has been accepted by the Engineer. The Engineer will promptly consider the certification of the replacement.

If identified work is performed without a person having the special qualifications in charge, the Engineer may, at its sole discretion, order such work removed and replaced at the Contractor's expense.

If, after certification is accepted, the Engineer finds that the certification was inaccurate, or work on the project indicates a lack of the knowledge and experience to supervise the work, the Engineer may order the work stopped until an acceptable replacement has been certified, accepted and is in charge.

### 5-3.2 Prevailing Wages.

Pursuant to Section 1773.2 of the Labor Code, the current prevailing rate of per diem wages at the time of the Bid as determined by the Director of the Department of Industrial Relations (DIR) are on file at the office of the Engineer. The Contractor shall post a copy of these rates at the Work site. Pursuant to Section 1774 of the Labor Code, the Contractor and any Subcontractors shall pay not less than the specified prevailing rates of wages to workers employed on the Contract. If the Contract is Federally-funded, the Contractor and any Subcontractors shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor. Pursuant to Section 1775 of the Labor Code, the Contractor and any Subcontractors, shall, as a penalty to the Agency, forfeit the prescribed amounts per calendar day, or portion thereof, for each worker paid less than the prevailing wage rates. The project is subject to the compliance monitoring and enforcement by the California Department of Industrial Relations (DIR). The contractor is responsible for posting job site notices as prescribed by regulation pursuant to Labor Code section 1771.4, subdivision (a)(2). The Contractor and each Subcontractor, if any, must be registered with the DIR pursuant to Labor Code section 1725.5 and section 1771.1. The Contractor and each Subcontractor, if any, must submit certified payrolls to the Labor Commissioner pursuant to Labor Code 1771.4.

### 5-3.3 Payroll Records.

Pursuant to Section 1776 of the Labor Code the Contractor and each Subcontractor, if any, shall keep, make available, and submit to the Engineer within ten (10) days of receipt of a written request, certified payroll records. Pursuant to Labor Code section 1776, subsection (h), the Contractor and each Subcontractor, if any, shall, as a penalty to the Agency, forfeit the prescribed amount for each calendar day, or portion thereof, for each worker, the Contractor and each Subcontractor, if any, fails to comply with that subsection until strict compliance is effectuated. The Contractor and each Subcontractor, if any, waives any right to any notice or hearing on the forfeiture of such penalties pursuant to Labor Code sections 1726 or 1771.6. The contractor shall

include this requirement in its subcontracts as required to make this paragraph effective as to each Subcontractor. Upon written request, the Contractor shall withhold penalties forfeited by a Subcontractor pursuant to Labor Code section 1776.1 subsection (h), and this paragraph from payment due to such Subcontractor and remit such penalties withheld to the Agency.

#### 5-3.4 Hours of Labor.

Pursuant to Section 1810 of the Labor Code, 8 hours of labor shall constitute a legal day's work. Pursuant to Section 1813 of the Labor Code, the Contractor and any Subcontractors, shall, as a penalty to the Agency, forfeit the prescribed amount per calendar day for each worker required or permitted to work more than 8 hours in any 1 calendar day and 40 hours in any 1 calendar week without being compensated in accordance with Section 1815.

Contractor and each Subcontractor, if any, waives any right to any notice or hearing on the forfeiture of such penalties pursuant to Labor Code sections 1726 and 1771.6. Contractor shall include terms in its subcontracts as required to make this paragraph effective as to each Subcontractor. Upon written request, Contractor shall withhold penalties forfeited by a Subcontractor pursuant to Labor Code section 1813 and this paragraph from payments due to such Subcontractor and remit such penalties withheld to the Agency.

#### 5-3.5 Apprentices.

Apprentices shall be employed on the Work in accordance with Labor Code Section 1777.5. The Contractor is responsible for compliance with Labor Code Section 1777.5 for all apprenticeable occupations whether employed directly or through subcontractors.

#### 5-3.6 Contractors' Duties Concerning Labor Code Compliance.

As required by Labor Code 1775(b)(1), Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 are required to be included in the contract between the Contractor and subcontractors. The Contractor agrees to comply with these sections and all remaining provisions of the Labor Code.

### 5-4 INSURANCE.

#### 5-4.1 General.

##### 5-4.1.1 Independence of Contractor.

It is understood and agreed that Contractor is, at all times, an independent contractor and that no relationship of employer-employee exists between the parties hereto.

Contractor will not be entitled to any benefits payable to employees of County, including but not limited to overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. County is not required to make any tax or benefit deductions from the compensation payable to Contractor under the provisions of this Agreement. As an independent contractor, Contractor hereby holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of the Agreement.

If, in the performance of this Agreement, any third persons are employed by Contractor, such persons will be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of employment or requirements of law, will be determined by Contractor. County will have no right or authority over such persons or the terms of such employment, except as provided in this Agreement.

#### 5-4.1.2 Indemnification and Hold Harmless Clause.

All activities arising out of or relating to the performance of the Work covered by this Contract shall be at the risk of Contractor. To the fullest extent permitted by law, Contractor shall defend (at Agency's request), indemnify and hold harmless Agency, and the County of Ventura if the County of Ventura is not the entity defined as Agency under this Contract, including all of their boards, agencies, departments, officers, employees, agents and volunteers (collectively, "Indemnatee"), against any and all claims, suits, actions, legal or administrative proceedings, judgments, debts, demands, damages, including injury or death to any person or persons, and damage to any property including loss of use resulting therefrom, incidental and consequential damages, liabilities, interest, costs, attorneys' fees and expenses of whatsoever kind of nature, whether arising before, during or after commencement or completion of this Contract, whether against Contractor and Indemnatee or which are in any manner, directly, indirectly, in whole or in part, arising from any act, omission, fault or negligence, whether active or passive, of Contractor, a Subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable in connection with or incident to the Contract, even though the same may have resulted from the joint, concurring or contributory negligence, or from the passive negligence, of Indemnatee or any other person or persons, unless the same be caused by the sole negligence of Indemnatee, or except to the extent caused by the active negligence or willful misconduct of Indemnatee.

The Agency will notify the Contractor of the receipt of any third-party claims.

#### 5-4.1.3 Contamination and Pollution.

Contractor, solely at its own cost and expense, will provide clean-up of any premises, property or natural resources contaminated or polluted due to Contractor activities. Any fines, penalties, punitive or exemplary damages assigned due to contaminating or polluting activities of the Contractor will be borne entirely by the Contractor.

#### 5-4.2 Insurance Requirements.

Contractor, at its sole cost and expense, shall obtain and maintain in full force during the term of this Contract the following types of insurance.

##### 5-4.2.1 Workers' Compensation Insurance.

###### 5-4.2.1.1 Coverage.

Workers' Compensation coverage, in full compliance with Labor Code 3700, for all employees of Contractor and Employer's Liability in the minimum amount of \$1,000,000. The Agency, the County of Ventura, its officers, employees, or Consultants, will not be responsible for any claims in law or equity occasioned by failure of Contractor to comply with this paragraph.

###### 5-4.2.1.2 Certification.

Before execution of the Contract by Agency, Contractor shall file with the Engineer the following signed certification:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

#### 5-4.2.2 Commercial General Liability Insurance.

##### 5-4.2.2.1 *Minimum Limits and Scope; Insurance Classes.*

"Occurrence" coverage in the minimum amount of:

<b>Coverage Class</b>	<b>Coverage</b>
L-A	\$ 1,000,000 combined single limit (CSL) bodily injury and property damage each occurrence and \$1,000,000 aggregate
L-B	\$ 1,000,000 CSL bodily injury and property damage each occurrence and \$2,000,000 aggregate
L-C	\$ 5,000,000 CSL bodily injury and property damage each occurrence and \$5,000,000 aggregate
L-D	\$ 10,000,000 CSL bodily injury and property damage each occurrence and \$10,000,000 aggregate

If no coverage class is specified in "Proposal", coverage class L-B shall apply.

If Contractor maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.

Coverages shall include premises/operations; products/completed operations; independent contractors; underground, explosion and collapse hazards; personal and advertising injury; broad form property damage; and broad form blanket contractual.

##### 5-4.2.2.2 *Coverage Exceptions.*

On projects where no explosives will be used and no demolition is involved, the coverage for explosion may be omitted. On projects where no excavation is involved, the coverage for underground hazard may be omitted. The omission of said coverages is at Agency's option and shall not abrogate Contractor's responsibilities for indemnification as set forth in these Specifications.

##### 5-4.2.2.3 *Excess Liability Policies.*

All Excess Liability policies, if used, shall be on an "umbrella" or following form of the primary layer of coverage.

#### 5-4.2.3 Commercial Automobile Liability Insurance.

Coverage in the minimum amount of \$1,000,000 CSL bodily injury and property damage, including automobile liability, any auto.

#### 5-4.2.4 Property Insurance.

Contractor shall arrange for its own "Course of Construction" insurance on the project to protect its interests, as Agency does not have this coverage.

Contractor is responsible for delivering to Agency Work completed in accordance with the Contract except as provided in 5-4.2.4.1. Should the Work being constructed be damaged by fire or other causes during construction, it shall be replaced by Contractor in accordance with the requirements of the Plans and Specifications without additional expense to Agency.

#### 5-4.2.4.1 *Acts of God.*

As provided in Section 7105 of the California Public Contract Code, the Contractor shall not be responsible for the cost of repairing or restoring damaged portions of the Work determined to have been proximately caused by an act of God in excess of 5 percent of the contracted amount, provided that the Work damaged was built in accordance with accepted and applicable building standards and the Specifications and Drawings. The Contractor shall obtain insurance to indemnify the Agency for any damage to the Work caused by an act of God if the premium of said insurance coverage is called for as a separate bid item in the bidding schedule for the Work. For purposes of this section, the term "acts of God" shall include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale, and tidal waves.

### 5-4.3 Other Insurance Provisions.

#### 5-4.3.1 Insurance Company Qualifications.

All insurance required shall be issued by (a) an admitted company or admitted companies authorized to transact business in the State of California which have a BEST rating of B+ or higher and a Financial Size Category (FSC) of VII or larger or (b) a California approved Surplus Line carrier or carriers which have a BEST rating of A or higher and a Financial Size Category (FSC) of VII or larger.

Workers compensation insurance not meeting the above requirements but meeting all other requirements of the specifications, will be accepted.

#### 5-4.3.2 Primary Coverage.

All insurance required shall be primary coverage as respects Agency and any insurance or self-insurance maintained by Agency or the County of Ventura shall be in excess of Contractor's insurance coverage and shall not contribute to it.

#### 5-4.3.3 Aggregate Limits Exceeded.

Agency shall not be notified immediately if any aggregate insurance limit is exceeded. Contractor shall purchase additional coverage to meet requirements.

#### 5-4.3.4 Liability in Excess of Limits.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Contractor for liability in excess of such coverage, nor shall it preclude Agency or the County of Ventura from taking such other actions as are available to it under any other provisions of this Contract or otherwise in law.

#### 5-4.3.5 Additional Insured Endorsements.

The Agency, the County of Ventura (if not defined as Agency) and all special Districts governed by the County of Ventura Board of Supervisors, and their officials, employees, and volunteers shall be named as Additional Insured as respects Work done by or on behalf of Contractor under the Contract on all policies required (except workers' compensation). With respect to Contractor's commercial general Liability insurance, Additional Insured coverage shall include both ongoing and completed operations.

#### 5-4.3.6 Waiver of Subrogation Rights.

Contractor agrees to waive all rights of subrogation against the Agency, the County of Ventura, including its boards, and all special Districts governed by the Board of Supervisors, for losses arising directly or indirectly from the activities or Work performed by Contractor under the Contract (applies only to Workers' Compensation and Commercial General Liability).

#### 5-4.3.7 Cancellation Notice Required.

In the case of policy cancellation, Agency shall be notified by the insurance company or companies as provided for in the policy. Contractor shall notify Agency of any and all policy cancellations within three working days of the cancellation.

#### 5-4.3.8 Documentation Required.

Prior to execution of the Contract by Agency, Contractor shall provide Agency with Certificates of Insurance for all required coverages (see Appendix A for example), all required endorsement(s) and a copy of its course of course insurance policy.

It is the responsibility of Contractor to confirm that all terms and conditions of Section 5-4.2 Insurance Requirements are complied with by any and all subcontractors that Contractor may use in the completion of the Contract.

### 5-5 ANTITRUST CLAIMS.

Pursuant to Section 7103.5 of the Public Contract Code:

"In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec 15) or Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or subcontract. The assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties."

### 5-6 PATENT FEES OR ROYALTIES.

The Contractor shall absorb in its Bid the patent fees or royalties on any patented article or process furnished or used in the Work. The Contractor shall indemnify and hold the Agency harmless from any legal action that may be brought for infringement of patents.

### 5-7 SAFETY.

#### 5-7.1 Work Site Safety.

##### 5-7.1.1 General.

The Contractor shall provide safety measures as necessary to protect the public and workers within, or in the vicinity of, the Work site. The Contractor shall ensure that its operations will not create safety hazards. The Contractor shall provide safety equipment, material, and assistance to Agency personnel so that they may properly inspect all phases of the Work. When asbestos is being removed, the requirements of the CCR Title 8, Div. 1, Chapter 4, Subchapter 4 and Subchapter 7 shall be implemented.

#### 5-7.1.2 Work Site Safety Official.

The Contractor shall designate in writing a "Project Safety Official" who shall be at the Work site at all times, and who shall be thoroughly familiar with the Contractor's Injury and Illness Prevention Program (IIPP) and Code of Safe Practices (CSP). The Project Safety Official shall be available, at all times, to abate any potential safety hazards and shall have the authority and responsibility to shut down an unsafe operation, if necessary.

#### 5-7.2 Safety Orders.

##### 5-7.2.1 General.

The Contractor shall have at the Work site, copies or suitable extracts of Construction Safety Orders, Tunnel Safety Orders, and General Industry Safety Orders issued by the State Division of Industrial Safety. Prior to beginning any excavation 5 feet in depth or greater, the Contractor shall submit to the Engineer, the name of the "Competent Person" as defined in CCR, Title 8, Section 1504, in accordance with 3-8. The "Competent Person" shall be present at the Work site as required by Cal-OSHA.

##### 5-7.2.2 Shoring Plan.

Before excavating any trench 5 feet or more in depth, the Contractor shall submit in accordance with 3-8.2 a detailed working drawing (shoring plan) showing the design of the shoring, bracing, sloping, or other provisions used for the workers' protection. If the shoring plan varies from the shoring system standards, the shoring plan shall be prepared by a registered Structural or Civil Engineer. The shoring plan shall accommodate existing underground utilities. No excavation shall start until the Engineer has accepted the shoring plan and the Contractor has obtained a permit from the State Division of Industrial Safety. A copy of the permit shall be submitted to the Engineer in accordance with 3-8.2. If the Contractor fails to submit a shoring plan or fails to comply with an accepted shoring plan, the Contractor shall suspend work at the affected location(s) when directed to do so by the Engineer. Such a directive shall not be the basis of a claim for Extra Work and the Contractor shall not receive additional compensation or Contract time due to the suspension.

##### 5-7.2.3 Payment.

Payment for shoring shall be included in the Bid item provided therefor. Payment for compliance with the provisions of the safety orders and all other laws, ordinances, and regulations shall be included in the various Bid items.

#### 5-7.3 Use of Explosives.

Explosives may be used only when authorized in writing by the Engineer, or as otherwise specified in the Special Provisions.

Explosives shall be handled, used, and stored in accordance with all applicable regulations. Prior to blasting, the Contractor shall comply with the following requirements:

- a) The jurisdictional law enforcement agency shall be notified 24 hours in advance of blasting.
- b) The jurisdictional fire department shall be notified 24 hours in advance of blasting.
- c) Blasting activities and schedule milestones shall be included in the Contractor's construction schedule per 6-1.

For a Private Contract, specific permission shall be obtained from the Agency in writing, prior to any blasting operations in addition to the above requirements.

The Engineer's approval of the use of explosives shall not relieve the Contractor from liability for claims caused by blasting operations.

#### 5-7.4 Hazardous Substances.

An MSDS as described in CCR, Title 8, Section 5194, shall be maintained at the Work site for all hazardous material used by the Contractor. Material usage shall be accomplished with strict adherence to California Division of Industrial Safety requirements and all manufacturer warnings and application instructions listed on the MSDS and on the product container label. The Contractor shall notify the Engineer if a specified product cannot be used under safe conditions.

#### 5-7.5 Confined Spaces.

##### 5-7.5.1 Confined Space Entry Program (CSEP).

The Contractor shall be responsible for implementing, administering and maintaining a CSEP in accordance with CCR, Title 8, Sections 5156, 5157 and 5158.

Prior to the start of the Work, the Contractor shall prepare and submit a CSEP in accordance with 3-8.4. The CSEP shall address all potential physical and environmental hazards and contain procedures for safe entry into confined spaces such as the following:

- a) Training of personnel
- b) Purging and cleaning the space of materials and residue
- c) Potential isolation and control of energy and material inflow
- d) Controlled access to the space
- e) Atmospheric testing of the space
- f) Ventilation of the space
- g) Special hazards consideration
- h) Personal protective equipment
- i) Rescue plan provisions

The submittal shall include the names of the Contractor's personnel, including each Subcontractor's personnel, assigned to the Work that will have CSEP responsibilities, their CSEP training, and their specific assignment and responsibility in carrying out the CSEP.

##### 5-7.5.2 Permit-Required Confined Spaces.

Entry into permit-required confined spaces as defined in CCR, Title 8, Section 5157 may be required as a part of the Work. Manholes, tanks, vaults, pipelines, excavations, or other enclosed or partially enclosed spaces shall be considered permit-required confined spaces until the pre-entry procedures demonstrate otherwise. The Contractor shall implement a permit-required CSEP prior to performing any work in a permit-required confined space. A copy of the permit shall be available, at all times, for review by the Contractor and the Engineer at the Work site.

##### 5-7.5.3 Payment.

Payment for the CSEP shall be included in the Bid items for which the CSEP is required.

## 5-7.6 Flood Lighting.

### 5-7.6.1 General.

When work is being performed during hours of darkness, as defined in Division 1, Section 280, of the California Vehicle Code, flood lighting shall be used to illuminate the Work site, flagger stations, equipment crossings and other hazardous areas. Flood lighting shall provide visibility for a distance of 1/2 mile. Flood lights shall not shine directly into the view of oncoming traffic.

### 5-7.6.2 Payment.

No separate or additional payment will be made for flood lighting. Payment shall be included in the Contract Unit Price or lump sum price in the Bid for the various Bid items.

## 5-7.7 Security and Protective Devices.

### 5-7.7.1 General.

Security and protective devices shall consist of fencing, steel plates, or other devices as specified in the Special Provisions to protect open excavations.

### 5-7.7.2 Security Fencing.

The Contractor shall completely fence open excavations. Security fencing shall conform to 304-5. Security fencing shall remain in place unless workers are present and construction operations are in progress during which time the Contractor shall provide equivalent security.

## 5-7.8 Steel Plate Covers.

### 5-7.8.1 General.

The Contractor shall provide, install, and maintain steel plate covers as necessary to protect from accidental entry into openings, trenches, and excavations.

Surfaces exposed to pedestrian or vehicular traffic shall be non-skid.

### 5-7.8.2 Thickness.

Steel plate covers shall conform to Table 5-7.8.2.

**TABLE 5-7.8.2**

<b>Trench Width</b>	<b>Steel Plate Cover Thickness</b>
Less than 10" (250 mm)	1/2" (12.5 mm)
10" (250 mm) to 1'-11" (580 mm)	3/4" (19 mm)
2' (600 mm) to 2'-7" (790 mm)	7/8 " (22 mm)
2'-8" (820 mm) to 3'-5" (1040 mm)	1" (25 mm)
3'-6" (1070 mm) to 5'-3" (1600 mm)	1-1/4" (32 mm)
More than 5'-3" (1600 mm)	See Note 1

Notes:

The Contractor shall submit a Working Drawing and calculations based on AASHTO H20-44 bridge loading.

### 5-7.8.3 Installation.

Steel plate covers shall:

- a) be secured against movement by use of a holding device,
- b) be installed in such a manner as to minimize noise creation when driven over, and
- c) extend a minimum of 1 foot (300 mm) beyond trench edges.

Unless otherwise specified in the Special Provisions, steel plate covers shall be installed using either Method 1 or 2.

- d) Method 1. For posted speeds more than 40 miles per hour (64 km/hour), the pavement shall be cold milled to a depth equal to the thickness of the plate and to a width and length equal to the dimensions of the plate. Method 1 may also be used for speeds less than 40 miles per hour (64 km/hour).
- e) Method 2. For posted speeds less than 40 miles per hour (64 km/hour), the approach plate(s) and ending plate (in longitudinal placement) shall be attached to the roadway by a minimum of 2 dowels drilled at the corners of the plate and drilled 2 inches (50 mm) into the pavement. Subsequent plates may be butted next to each other. When the steel plates are removed, the dowel holes shall be backfilled.

When Method 2 is used, temporary asphalt concrete (D2-SC 800) shall be used to construct tapers from the steel plate surface to the surface of the existing roadway as follows:

- f) for vehicular traffic, with a 4-inch (100 mm) run for each 1 inch (25 mm) thickness of steel plate.
- g) for bike paths or routes, with an 8-inch (200 mm) run for each 1 inch (25 mm) thickness of steel plate.
- h) the pedestrian way, including crosswalks, shall be placed with a 12-inch (300 mm) run for each 1 inch (25 mm) thickness of steel plate if the plate is installed per Method 2.

Advance traffic warning signs shall be installed as specified in the Special Provisions or shown on the TCP.

### 5-7.8.4 Payment.

Unless otherwise specified in the Special Provisions, no separate or additional payment will be made for steel plate covers. Payment shall be included in the Contract Unit Price or lump sum price in the Bid for the various Bid items that require steel plate covers.

## 5-8 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS.

The Contractor shall be responsible for the protection of public and private property adjacent to the Work and shall exercise due caution to avoid damage to such property.

The Contractor shall repair or replace all existing improvements within the right-of-way which are not designated for removal (e.g., curbs, sidewalks, driveways, fences, walls, signs, utility installations, pavement, structures, etc.) which are damaged or removed as a result of its operations. When a portion of a sprinkler system within the right-of-way must be removed, the remaining lines shall be capped. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension.

Maintenance of street and traffic signal systems that are damaged, temporarily removed or relocated shall be done in conformance with 307-1.5.

Trees, lawns, and shrubbery that are not designated to be removed shall be protected from

damage or injury. If damaged or removed because of the Contractor's operations, they shall be restored or replaced in as nearly the original condition and location as is reasonably possible. Lawns shall be reseeded and covered with suitable mulch.

The Contractor shall give reasonable notice to occupants or owners of adjacent property to permit them to salvage or relocate plants, trees, fences, sprinklers and other improvements which are designated for removal and would be destroyed because of the Work.

All costs to the Contractor for protecting, removing, and restoring existing improvements shall be absorbed in its bid.

In existing buildings, all surfaces, equipment, furniture, and other property shall be protected from loss or damage by or as result of the Contractor's operations. The Contractor shall replace damaged property or shall repair and restore it to its previous condition. Patching, painting, replacement of wall, ceiling and floor covering and similar Work shall be done in such a manner that the repaired Work will not be readily noticeable.

## 5-9 PUBLIC CONVENIENCE AND SAFETY.

### 5-9.1 Access.

#### 5-9.1.1 General.

The Contractor's operations shall cause no unnecessary inconvenience to the public or businesses in the vicinity of the Work. The Contractor shall have no greater length or quantity of Work under construction than can be properly prosecuted with a minimum of inconvenience to the public and other contractors engaged in adjacent or related work.

The Contractor shall provide continuous and unobstructed access to the adjacent properties unless otherwise specified in the Special Provisions or approved by Engineer. Work requiring traffic lane closures shall only be performed between the hours specified in the Special Provisions or shown on the TCP. Traffic shall be permitted to pass through the Work site, unless otherwise specified in the Special Provisions or shown on the TCP.

#### 5-9.1.2 Vehicular Access.

Vehicular access to residential driveways shall be maintained to the property line except when necessary construction precludes such access. If backfill has been completed to the extent that safe access may be provided and the street is opened to local traffic, the Contractor shall immediately clear the street and driveways and provide and maintain access.

#### 5-9.1.3 Pedestrian Access.

Safe, adequate, and ADA compliant pedestrian access shall be maintained unless otherwise approved by the Engineer.

### 5-9.2 Traffic Control.

#### 5-9.2.1 General.

Work area traffic control shall conform to the California MUTCD, WATCH, or as specified in the Special Provisions. The total length of the traffic control zone shall include a buffer space, advance signing, striping transitions in advance of the Work site, existing striping, signing, and raised medians.

#### 5-9.2.2 Traffic Control Plan.

If so specified in the Special Provisions or on the permit, the Contractor shall submit a TCP in accordance with 3-8.2. The sheets of the TCP shall display the title, phase identification, name of the firm preparing the TCP, name and stamp of the Registered Traffic or Civil Engineer, approval block for each jurisdictional agency, north arrow, sheet number, and number of sheets comprising the TCP. General notes and symbol definitions shall be included when required. Adequate dimensioning shall be provided to allow for proper field installation. The TCP shall be drawn to a 1 inch = 40 feet scale on common size sheets, either 8-1/2 inches x 11 inches, 8-1/2 inches x 14 inches, 11 inches x 17 inches, or 2-foot x 3-foot plan sheets as dictated by the length of the Work.

The requirements in the Special Provisions shall govern the design of the proposed TCP.

#### 5-9.2.3 Payment.

Payment for preparation of the TCP shall be included in the appropriate lump sum Bid items. If no Bid items have been provided, payment shall be included in the various Bid items unless otherwise specified in the Special Provisions.

### 5-10 LOSS OR DAMAGE TO THE WORK.

The Contractor is responsible for delivering to the Agency Work completed in accordance with the Contract except as provided in 5-4.2.4.1. Should the Work being constructed be damaged by fire or other causes before Acceptance by the Agency, it shall be replaced in accordance with the requirements of the Plans and Specifications without additional expense to the Agency. The Agency does not carry "Course of Construction" insurance on the Work. Contractor should arrange for its own insurance to protect its interests.

## SECTION 6 – PROSECUTION AND PROGRESS OF THE WORK

### 6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK.

#### 6-1.1 Construction Schedule.

The requirements of this section concerning submission of construction schedules shall not apply to projects where the time allowed to complete the Work is less than 25 Working Days or the total Contract Price bid is less than \$75,000 unless required by the special provisions.

The Contractor shall submit a construction schedule concurrently with the submittal of signed Contract, Contract bonds, and certificate of insurance. The Notice to Proceed will be delayed until the schedule is received. See 6-3.2.1.

When required by the Special Provisions, a revised schedule shall be submitted monthly prior to each progress payment closure date. Processing of the progress payment will be delayed until such revised schedule complying with this section is received.

The construction schedule shall be in the form of a Construction Element vs. Time Chart as shown in Appendix B-1 and a Work Complete vs. Time Chart as shown in Appendix B-2.

The B-1 Chart shall be in sufficient detail to show the chronological relationship of all activities of the project including, but not limited to, estimated starting and completion dates of various activities, submittal of shop drawings to the Engineer for approval, procurement of materials, and scheduling of equipment. The B-1 Chart shall recognize the requirements of 6-4.1.1. The B-1 Chart shall reflect obtaining all materials and completing all Work under the Contract within the specified time and in accordance with these Specifications. If the Contractor intends to complete the Work prior to the time for completion, the intended date of completion shall be set forth in the B-1 Chart and the Contractor shall execute a Contract Change Order that changes the number of Working Days allowed for completion to conform with such intended completion date. The Change Order shall not change the Contract Price.

The Contractor may submit a computer generated schedule in lieu of the forms in Appendix B-1 and B-2, provided all of the elements shown on that form or specified herein are included.

An updated construction schedule shall be submitted prior to the next progress payment closure date whenever the actual percent Work complete versus percent time elapsed curve falls below and to the right of the dotted line shown on Appendix B-2.

If the Contractor desires to make a major change in its method of operations after commencing construction, or if its schedule fails to reflect the actual progress, it shall submit to the Agency a revised construction schedule in advance of beginning revised operations.

Revised and updated schedules shall show actual completion to the date of the revision in the lower segmented bar for each item.

The construction schedule shall be prepared as follows (see Appendices C-1 and C-2):

1. On the B-1 Chart:
  - a. Enter the project name and Specification No. and the Contractor's name.
  - b. List the items of Work either individually or combined where items are part of the same element of the Work.
  - c. Assign a value for each horizontal space plotting interval in Working Days as follows: 1 working day for total Contract time of less than 100 working days, 2 for 100 to 200 working days and 5 for longer projects. Enter the value used in the space provided in the

lower part of the form.

- d. At the end of performance time draw a vertical line and label it "End Performance Time". Enter numbers at 10 times the plotting interval at the top of intermediate vertical lines.
  - e. Shade in a bar in the upper segmented section for each work item to indicate the period during which Work will be performed. Move-in time and delivery time for materials shall be shown if significant to the schedule.
2. On the B-2 Chart:
- a. Enter the project name and Specification No. as shown on the notice inviting bids.
  - b. At time intervals of 10 or 20 working days:
    - (1) Compute the cumulative dollar value of Work which is expected to be completed for each item of Work, including the value of the completed portion of lump-sum items.
    - (2) Divide the values computed in "b(1)" by the Total Contract Price to determine the percentage of the entire Contract planned for completion at the end of each time interval.
    - (3) Divide the days of performance time at the end of each time interval by the total Contract performance time to obtain the percentage of elapsed performance time.
  - c. Plot each percentage of completion value figure computed in "b(2)" against the corresponding percentage of completion time computed in "b(3)" using scales on the bottom and left side of chart.
  - d. Connect points plotted in "c" with a line which will show the planned progress for the entire job.

If the proposed percent Work complete versus percent time elapsed line falls below and to the right of the dotted line drawn on the B-2 Chart, the Contractor shall provide sufficient information and backup to show that the Work can be completed on time.

## 6-1.2 Commencement of the Work.

### 6-1.2.1 Beginning of Work.

The issuance of Notice to Proceed by Agency shall constitute the Contractor's authority to enter upon the site of the Work and to begin operations provided it has also notified Engineer at least 24 hours in advance. Entry upon the site without authority will be treated as trespassing.

### 6-1.2.2 Starting Work.

The Contractor may start work at any time after the Notice to Proceed is issued but work shall begin within 15 Days after the starting date for the Contract, or at such other time as may be indicated in the Special Provisions. The actual date on which the Contractor starts work will not affect the required time for completion as provided for in 6-3.

### 6-1.2.3 Work Sequence.

If required by the Special Provisions, the Contractor shall start construction operations on that part of the Work designated by the Engineer.

### 6-1.2.4 Resources Required.

The Work shall be conducted in such a manner and with sufficient materials, equipment, and labor to insure its completion in accordance with the Plans and Specifications within the time set forth in the Contract.

## 6-2 PROSECUTION OF THE WORK.

To minimize public inconvenience and possible hazard and to restore street and other work areas to their original condition and state of usefulness as soon as practicable, the Contractor shall diligently prosecute the Work to completion. If the Engineer determines that the Contractor is failing to prosecute the Work to the proper extent, the Contractor shall, upon orders from the Engineer, immediately take steps to remedy the situation. Should the Contractor fail to take the necessary steps to fully accomplish said purposes, after orders of the Engineer, the Engineer may suspend the Work in whole or part, until the Contractor takes said steps.

If the Work is suspended through no fault of the Agency, all expenses and losses incurred by the Contractor during such suspensions shall be borne by the Contractor. If the Contractor fails to properly provide for public safety, traffic, and protection of the Work during periods of suspension, the Agency may elect to do so, and deduct the cost thereof from monies due the Contractor. Such actions will not relieve the Contractor from liability.

## 6-3 TIME OF COMPLETION.

### 6-3.1 General.

The Contractor shall complete the Work within the time set forth in the Contract. The Contractor shall complete each portion of the Work within such time as set forth in the Contract for such portion. Unless otherwise specified, the time of completion of the Contract shall be expressed in Working Days.

### 6-3.2 Contract Time Accounting.

The Engineer will make a daily determination of each Working Day to be charged against the Contract time. These determinations will be discussed and the Contractor will be furnished a periodic statement showing the allowable number of Working Days of Contract time, as adjusted, at the beginning of the reporting period. The statement will also indicate the number of Working Days charged during the reporting period and the number of Working Days of Contract time remaining. If the Contractor does not agree with the statement, the Contractor must file a written protest within 15 Days after receipt, setting forth the facts of the protest. Otherwise, the statement will be deemed to have been accepted.

#### 6-3.2.1 Starting Date for Contract Time and Notice to Proceed.

The starting date for Contract time accounting will be determined by adding the number of Days indicated on the Proposal form to the date the Contract is awarded, however the Agency may, at its option, delay the starting date by not more than 60 calendar Days if necessary to obtain permits, rights-of-way, or approval of federal or State authorities, or when prevented from starting the project due to causes beyond its control. Notice to Proceed will be issued within 7 calendar Days after the Contract, bonds, certificates of insurance and other documents have been returned, properly completed by the Contractor, unless the starting date is delayed as herein provided. If the Agency delays the Contract starting date, Notice to Proceed will be issued at least 7 calendar Days prior to the new starting date. Any delay caused by failure of the Contractor to properly complete or timely return the Contract Documents shall not change the Contract starting date and shall not be a cause for extending the Contract time. The Notice of Award will indicate a probable Contract starting date. The Notice to Proceed will indicate the actual Contract starting date, computed as herein described.

### 6-3.2.2 Contractor's Work Hours.

#### 6-3.2.2.1 *Working Hours Limitations.*

Except as otherwise specified, no work shall be performed by the Contractor at the Work site between the hours of 7:00 p.m. and 7:00 a.m. the following day, nor shall work be performed on Saturdays, Sundays or holidays listed in 6-3.2.3.1.

#### 6-3.2.2.2 *Regular Work Schedule.*

The Contractor shall furnish a work schedule with the Construction Schedule required by 6-1 and inform the Engineer at least two Days in advance of changing the schedule. The schedule shall include the times for starting and ending work on each day. Such starting and ending times shall not be more than 10 1/2 hours apart.

#### 6-3.2.2.3 *Exceptions.*

The limitations on working hours and days shall not apply to emergency work made necessary by unusual conditions where such work is necessary to protect the Work, to protect the property of others, to protect life, or to ensure the orderly flow of traffic.

The limitations of this section shall not apply where work at times other than allowed by 6-3.2.2.1 and 6-3.2.2.2 is necessary in order to make utility connections or is required by other provisions contained in these Specifications in order to perform the work in the manner specified. In these cases, the Contractor shall obtain prior written approval of the Engineer at least two Days in advance of performing the work.

### 6-3.2.3 Working Day.

A Working Day is any day within the period between the start of the Contract time as defined in 6-3.2.1 and the date provided in the Contract for completion or upon field acceptance by the Engineer of all Work provided for in the Contract, whichever occurs first, other than:

1. Saturday,
2. Sunday,
3. any day designated as a holiday by the Agency,
4. any other day designated as a holiday in a Master Labor Agreement entered into by the Contractor or on behalf of the Contractor as an eligible member of a Contractor Association,
5. any day the Contractor is prevented from working at the beginning of the workday for cause as defined in 6-4.1,
6. any day the Contractor is prevented from working during the first 5 hours of the workday with at least 60 percent of the normal work force for cause as defined in 6-4.1.

#### 6-3.2.3.1 Holidays.

Solely for the purposes of paragraph (3) of 6-3.2.3, the following days are designated as holidays by the Agency.

MONTH	A AGENCY EMPLOYEE HOLIDAYS	B OTHER DESIGNATED HOLIDAYS
January	1st day; 3rd Monday	None
February	3rd Monday	12th day
March	None	31st day
March-April	None	One Friday between March 21 and April 23 designated as Good Friday
May	Last Monday	None
June	19 <sup>th</sup> day	None
July	4 <sup>th</sup> day	None
August	None	None
September	1 <sup>st</sup> Monday	9 <sup>th</sup> day
October	None	2 <sup>nd</sup> Monday
November	11 <sup>th</sup> day; 4 <sup>th</sup> Thursday; The Friday following the 4 <sup>th</sup> Thursday	The Friday following the 4 <sup>th</sup> Thursday
December	25 <sup>th</sup> day	23 <sup>rd</sup> day, only if Thursday or Friday; 24 <sup>th</sup> day; 31 <sup>st</sup> day

If any day listed above falls on Saturday, the preceding Friday is the holiday. If any day listed above falls on Sunday, the succeeding Monday is the holiday.

No extra holiday shall result when such Friday or Monday is already designated as a holiday.

A copy of a Working Day calendar incorporating the above-listed holidays and used by the Agency for Contract time accounting purpose will be furnished to the Contractor upon request.

The Contractor may perform work on the holidays designated in Column A above provided it has obtained prior written approval of the Engineer at least two Days in advance of performing the work. The Contractor may perform work on the holidays designated in Column B above provided the Contractor notifies the Engineer two Days in advance of the holiday.

#### 6-3.2.3.2 Landscape Maintenance Period.

Where a landscape maintenance period is specified, the portion of the time in such period that follows the completion of all other Work required by the Contract shall not be Working Days for Contract time accounting.

### 6-4 DELAYS AND EXTENSIONS OF TIME.

#### 6-4.1 General.

If delays are caused by unforeseen events beyond the control of the Contractor, such delays will entitle the Contractor to an extension of time as provided herein, but the Contractor will not be entitled to damages or additional payment due to such delays, except as provided in 6-4.3. Such unforeseen events may include war, government regulations, labor disputes, strikes, fires, floods, adverse weather necessitating cessation of work, other similar action of the elements, inability to obtain materials, equipment or labor, required Extra Work, or other specific events as may be further described in the Specifications.

No extension of time will be granted for a delay caused by the Contractor's inability to obtain materials unless the Contractor furnishes to the Engineer documentary proof of the inability to obtain such materials in a timely manner in accordance with the sequence of the Contractor's operations and the approved construction schedule.

If delays beyond the Contractor's control are caused by events other than those mentioned above, but substantially equal in gravity to those enumerated, and an extension of time is deemed by the Engineer to be in the best interests of the Agency, an extension of time may be granted, but the Contractor will not be entitled to damages or additional payment due to such delays, except as provided in 6-4.3.

If delays beyond the Contractor's control are caused solely by action or inaction by the Agency, such delays will entitle the Contractor to an extension of time as provided in 6-4.2.

#### 6-4.1.1 Cooperation During Utility Relocation.

When utilities are to be relocated during construction, the Contractor shall cooperate and coordinate with the respective utility owners so they may relocate their facilities to clear the Work. Delays in relocation of utilities which result from the failure to cooperate and coordinate will not be a cause for an extension of time or Non-Working Days.

#### 6-4.2 Extensions of Time.

Extensions of time, when granted, will be based upon the effect of delays to the Work as a whole and will not be granted for noncontrolling delays to minor included portions of Work unless it can be shown that such delays did, in fact, delay the progress of the Work, as a whole.

#### 6-4.3 Payment for Delays to Contractor.

Pursuant to Section 7102 of the Public Contract Code, the Contractor will be compensated for damages incurred due to delays for which the Agency is responsible if such delays are unreasonable in the circumstances involved and were not within the contemplation of the parties when the Contract was awarded to the Contractor and delay the Work as a whole. Such actual costs will be determined by the Engineer. The Agency will not be liable for, and in making this determination the Engineer will exclude, all damages which the Engineer determines the Contractor could have avoided by any reasonable means including, without limitation, the judicious handling of forces, equipment, or plant.

#### 6-4.4 Written Notice and Report.

If the Contractor desires payment for a delay as specified in 6-4.3 or an extension of time, it shall, within 30 Days after the beginning of the delay, file with the Agency a written request and report as to the cause and extent of the delay. The request for payment or extension must be made at least 15 Days before the specified completion date. Failure by the Contractor to file these items within the time specified will be considered grounds for refusal by the Agency to consider such request.

##### 6-4.4.1 Documentation of Delays.

When the Contractor requests an extension of time for delay due to inability to obtain materials or equipment, the documentary proof required by 6-4.1 shall include the following:

1. Date Engineer was notified of delay.
2. Date the delay began.
3. Exact description of material or equipment causing delay.

4. Documentation showing when and from whom ordered.
5. Documentation of promise to deliver.
6. Documentation of actual delivery date.
7. Description of how late delivery caused delay (include construction schedule).
8. Documentation of measures taken to get prompt delivery.
9. Documentation of attempts to get delivery from other sources.
10. Description of steps taken in project scheduling to minimize effects of late delivery.
11. Description of steps taken to get project back on schedule after actual delivery.
12. Statement of actual time lost as a result of late delivery.

## 6-5 USE OF IMPROVEMENT DURING CONSTRUCTION.

The Agency reserves the right to take over and utilize all or part of any completed facility or appurtenance. The Contractor will be notified in writing in advance of such action. Such action by the Agency will relieve the Contractor of responsibility for injury or damage to said completed portions of the improvement resulting from use by public traffic or from the action of the elements or from any other cause, except injury or damage resulting from the Contractor's operations or negligence. The Contractor will not be required to reclean such portions of the improvement before field completion, except for cleanup made necessary by its operations. Nothing in this section shall be construed as relieving the Contractor from full responsibility for correcting defective work or materials.

In the event the Agency exercises its right to place into service and utilize all or part of any completed facility or appurtenance, the Agency shall assume the responsibility and liability for injury to persons or property arising out of or resulting from the utilization of the facility or appurtenance so placed into service, except for any willful or negligent act or omission by the Contractor, Subcontractor, their officers, employees or agents.

### 6-5.1 Use of Improvements - Exceptions.

The provisions of 6-5 shall not apply to projects for the repair, modification, enlargement or improvement of existing facilities that are to remain in use during construction except where a portion of the project which is completely independent from the rest of the Work can be completed and put into use by the Agency.

On projects on public roads, after satisfactory completion of an isolated section of the Work involving roadway improvements or repairs, when all temporary signs and other temporary Contractor facilities have been removed, the section is not being used as a detour, the section is no longer under the Contractor's control, and the section is opened to public traffic through the end of the Contract period, that section of the Work shall be taken over by the Agency as provided in 6-5. The Contractor shall indicate to the Engineer in writing when the conditions of this paragraph have been complied with and shall specify the limits of the section involved. Any taking over of the Work by the Agency shall be effective only when formal written notification is issued by the Agency.

## 6-6 SUSPENSION OF WORK.

### 6-6.1 General.

The Work may be suspended in whole or in part when determined by the Engineer that the suspension is necessary in the interest of the Agency. The Contractor shall comply immediately with any written order of the Engineer. Such suspension shall be without liability to the Contractor on the part of the Agency except as otherwise specified in 6-4.3.

## 6-6.2 Archaeological and Paleontological Discoveries.

If discovery is made of items of archaeological or paleontological interest, the Contractor shall immediately cease excavation in the area of discovery and shall not continue until ordered by the Engineer. When resumed, excavation operations within the area of discovery shall be as directed by the Engineer.

Discoveries which may be encountered may include, but not be limited to, dwelling sites, stone implements or other artifacts, animal bones, human bones and fossils.

Contractor shall be entitled to an extension of time and compensation in accordance with 6-4.

## 6-6.3 Temporary Suspension of Work.

Should suspension of Work be ordered by reason of the failure of the Contractor to carry out orders or to perform any provisions of the Contract; or by reason of weather conditions being unsuitable for performing any item or items of Work; the Contractor, at its expense, shall do all the work necessary to provide a safe, smooth, and unobstructed passageway through construction for use by public traffic during the period of such suspension. In the event that the Contractor fails to perform the work above specified, the Agency may perform such work and the cost thereof will be deducted from monies due or to become due the Contractor.

If the Engineer orders a suspension of all the Work, or a portion of the Work which is the current controlling operation or operations, due to unsuitable weather or to such other conditions as are considered unfavorable to the suitable prosecution of the Work, the days on which the suspension is in effect shall not be considered Working Days.

If a portion of Work at the time of such suspension is not a current controlling operation or operations, but subsequently does become the current controlling operation or operations, the determination of Working Days will be made on the basis of the then current controlling operation or operations.

If a suspension of Work is ordered by the Engineer due to the failure on the part of the Contractor to carry out orders given or to perform any provision of the Contract, the Days on which the suspension order is in effect shall be considered Working Days if such days are Working Days as defined.

## 6-7 TERMINATION OF THE CONTRACT FOR DEFAULT.

### 6-7.1 General.

If, prior to the acceptance of the Work, the Contractor:

- a) becomes insolvent, assigns its assets for the benefit of its creditors, is unable to pay its debts as they become due, or is otherwise financially unable to complete the Work,
- b) abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion,
- c) disregards written instructions from the Agency or materially violates provisions of the Contract Documents,
- d) fails to prosecute the Work according to the schedule approved by the Engineer,
- e) disregards laws or regulations of any public body having jurisdiction, or
- f) commits continuous or repeated violations of regulatory or statutory safety requirements,

then the Agency will consider the Contractor in default of the Contract.

Notices, and other written communications regarding default between the Contractor, the Agency, and the Surety shall be transmitted in accordance with 5-2.

#### 6-7.2 Notice to Cure.

The Agency will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within 5 Working Days after receipt.

#### 6-7.3 Notice of Termination for Default.

If the Contractor fails to commence satisfactory corrective action within 5 Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, then the Agency will consider the Contractor in default of the Contract and:

- a) will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety,
- b) may use any materials, equipment, tools or other facilities furnished by the Contractor to secure and maintain the Work site, and
- c) may furnish labor, equipment, and materials the Agency deems necessary to secure and maintain the Work site. The provisions of this subsection shall be in addition to all other legal rights and remedies available to the Agency.

#### 6-7.4 Responsibilities of the Surety.

Upon receipt of the written notice of termination for default, the Surety shall immediately assume all rights, obligations and liabilities of the Contractor under the Contract. If the Surety fails to protect and maintain the Work site, the Agency may do so, and may recover all costs incurred. The Surety shall notify the Agency that it is assuming all rights, obligations and liabilities of the Contractor under the Contract and all money that is due, or would become due, to the Contractor shall be payable to the Surety as the Work progresses, subject to the terms of the Contract.

Within 15 Working Days of receipt of the written notice of termination for default, the Surety shall submit to the Agency a written plan detailing the course of action it intends to take to remedy the default. The Agency will review the plan and notify the Surety if the plan is satisfactory. If the Surety fails to submit a satisfactory plan, or if the Surety fails to maintain progress according to the plan accepted by the Agency, the Agency may, upon 48 hours written notice, exclude the Surety from the premises, take possession of all material and equipment, and complete the Work in any way the Agency deems to be expedient. The cost of completing the Work by the Agency shall be charged against the Surety and may be deducted from any monies due, or which would become due, the Surety. If the amounts due under the Contract are insufficient for completion, the Surety shall pay to the Agency, within 30 days after the Agency submits an invoice, all costs in excess of the remaining Contract Price.

#### 6-7.5 Payment.

The Surety will be paid for completion of the Work in accordance with 7-3 less the value of damages caused to the Agency by acts of the Contractor.

### 6-8 TERMINATION OF CONTRACT FOR CONVENIENCE.

The Board may terminate the Contract at its own discretion or when conditions encountered during the Work make it impossible or impracticable to proceed, or when the Agency is prevented from proceeding with the Contract by act of God, by law, or by official action of a public authority.

The Agency will issue a written notice of termination for convenience in accordance with 5-2. Upon receipt, the Contractor shall immediately cease work, except work the Contractor is directed

to complete by the Engineer or required to complete for public safety and convenience. The Contractor shall immediately notify Subcontractors and suppliers to immediately cease their work.

The Contractor will be paid without duplication for:

- a) work completed in accordance with the Contract Documents prior to the effective date of termination for convenience;
- b) reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
- c) reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the Agency no later than 90 days from the effective date of termination, unless extended, in writing, by the Agency upon written request by the Contractor.

If the Contractor fails to submit a proposal, the Agency may determine the amount, if any, due the Contractor as a result of the termination. The Agency will pay the Contractor the amount it determines to be reasonable. If the Contractor disagrees with the amount determined by the Agency as being reasonable, the Contractor shall provide notice to the Agency within 30 days of receipt of payment. Any amount due shall be as later determined by arbitration, if the Agency and the Contractor agree thereto, or as fixed in a court of law.

## **6-9 LIQUIDATED DAMAGES.**

Failure of the Contractor to complete the Work within the time allowed will result in damages being sustained by the Agency. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified, as adjusted in accordance with 6-6, for completion of the Work the Contractor shall pay to the Agency, or have withheld from monies due it, the sum of \$250, unless otherwise provided in the Contract Documents.

Execution of the Contract under these Specifications shall constitute agreement by the Agency and Contractor that \$250 per day is the minimum value of the costs and actual damage caused by failure of the Contractor to complete the Work within the allotted time, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs.

## **6-10 NOTICE OF POTENTIAL CLAIM FOR ADDITIONAL COMPENSATION.**

Procedures for notice of claims in specific situations and circumstances are provided in the following sections:

2-9 Changed Conditions

6-4 Delays and Extensions of Time

6-3.2 Contract Time Accounting

Compliance with this section is not prerequisite to assertion of a claim involving those sections or based on differences in measurements or errors of computation as to Contract quantities.

Compliance with the provisions of this section is required in all other situations and circumstances.

It is the intention of this section that differences arising between the parties under and by virtue of the Contract be brought to the attention of the Engineer at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action taken to resolve such differences.

The Contractor shall give the Engineer written notice of a potential claim, setting forth: (1) the reasons for which the Contractor believes additional compensation will or may be due; (2) the nature of the costs involved; and (3) insofar as possible, the amount of the potential claim.

If the claim is based upon an act or failure to act by the Engineer, the said notice must be given to the Engineer prior to the date when the work giving rise to the potential claim is commenced; in all other cases the said notice must be given to the Engineer within 15 Days after the happening of the event, thing or occurrence giving rise to the potential claim.

The Contractor shall not be entitled to the payment of any additional compensation where the written notice of potential claim has not been given to the Engineer in the manner required by and within the time limitations of this section.

## 6-11 DISPUTES AND CLAIMS; PROCEDURE.

### 6-11.1 General.

Any and all decisions made on appeal pursuant to this section shall be in writing. Any "decision" purportedly made pursuant to this section which is not in writing shall not be binding upon the Agency and should not be relied upon by the Contractor.

Filing or giving the notices required under 2-9, 6-4.4.1, 6-3.2, and 6-10 is prerequisite to recovery under a Contractor's claim for additional compensation; nothing in this section shall excuse the Contractor from its duty to file or give the required notices, or from performing other duties required by the Contract Documents.

### 6-11.2 Administrative Review.

Prior to proceeding under 6-11.3 or filing a Complaint in Arbitration, the Contractor shall exhaust its administrative remedies by submitting its claim for review and decision by the following Agency staff in the following sequence:

- Project Manager, responsible for the project.
- Department Director (Public Works Agency), responsible for the project.
- Director of the Public Works Agency (the Engineer)

If the Contractor disputes the Project Manager's decision on its claim, the Contractor shall submit the claim to the Department Director. If the Contractor disputes the Department Director's decision on its claim, the Contractor shall submit the claim to the Engineer. Agency staff decisions shall state the portion of the claim that is undisputed, if any.

The Project Manager may elect to forward a claim submitted by the Contractor directly to the Department Director. The Project Manager must give the Contractor notice of that election and the Contractor may supplement its claim within 7 Days of such notice (unless the parties agree in writing to a different time) and its claim will be deemed submitted on the earlier of the day it supplements its claim, the day it states in writing that it will not supplement its claim or the day time to supplement expires. The Department Director may forward a claim timely submitted by the Contractor directly to the Engineer instead of making a decision on the claim, in which case no notice or opportunity to supplement the claim is required, and the claim shall be deemed timely submitted to the Engineer.

The Engineer's decision on the claim shall be the Agency's final decision.

Claims submitted to the Department Director and the Engineer shall be submitted in writing and shall include:

- a. A copy of the disputed decision.
- b. A statement as to why the Contractor believes the decision is in error.
- c. All information, argument, documents, and evidence (collectively, materials) that the Contractor wishes to have considered in the review. Where the request for review is made to the Engineer, in lieu of resubmitting materials which have already been submitted to the Department Director, the Contractor may include with the request a list of the materials the Contractor wants the Engineer to consider. Any additional materials and evidence not previously submitted to the Department Director shall be included with the request to the Engineer, if the Contractor wishes them to be considered. If relevant evidence is not available at the time the request is made to the Department Director or the Engineer, the Contractor shall identify such evidence and include a statement as to when such evidence will be submitted.

The Project Manager shall issue a decision on a claim within 10 Days of receipt; if the Project Manager does not do so, then the Project Manager will be deemed to have decided to reject the claim in its entirety as of the conclusion of the 10th Day after receipt. The Contractor shall submit a claim to the Department Director for review and decision within 7 Days of receipt of the Project Manager's decision or of the time the Project Manager is deemed to have decided to reject the claim, whichever is applicable. The Department Director shall issue a decision on a claim within 10 Days of the timely submission of the claim; if the Department Director does not do so, then the Department Director will be deemed to have decided to reject the claim in its entirety as of the conclusion of the 10th Day after timely submission. The Contractor shall submit a claim to the Engineer for review and decision within 7 Days of receipt of the Department Director's decision or of the time the Department Director is deemed to have decided to reject the claim, whichever is applicable. If a claim is timely submitted to the Engineer and the Engineer fails to issue a decision on that claim within the time limits prescribed for issuing a written statement under Public Contract Code, section 9204, subdivision (d)(1), the Engineer shall be deemed to have decided to reject the claim in its entirety. At any time after the Project Manager receives a claim, the Agency and Contractor may agree in writing to different time limits than those set forth in this paragraph.

### 6-11.3 Meet and Confer; Mediation.

If the Contractor disputes the Agency's final decision, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the Agency shall schedule a meet and confer conference within 30 Days for settlement of the dispute.

Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the Agency shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 Days after the Agency issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the Agency and the Contractor sharing the associated costs equally. The Agency and Contractor shall agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the Agency and Contractor cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

Failure by the Agency to meet the time requirements of this section shall result in the portion of the claim that remains in dispute being deemed rejected in its entirety.

The parties may agree to waive, in writing, mediation under this section.

#### 6-11.4 Arbitration.

Claims and disputes arising under or related to the performance of the Contract, except for claims which have been released by execution of the "Release on Contract" as provided in 6-12, shall be resolved by arbitration unless the Agency and the Contractor agree in writing, after the claim or dispute has arisen, to waive arbitration and to have the claim or dispute litigated in a court of competent jurisdiction. Arbitration shall be pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2 of the Public Contract Code and the regulations promulgated thereto, Chapter 4 (commencing with Section 1300) of Division 2 of Title 1 of the California Code of Regulations. The arbitration decision shall be decided under and in accordance with California law, supported by substantial evidence and, in writing, contain the basis for the decision, findings of fact, and conclusions of law.

Arbitration shall be initiated by a Complaint in Arbitration made in compliance with the requirements of said Chapter 4. A Complaint in Arbitration by the Contractor shall be filed not later than 90 calendar Days after receipt of the final written decision of the Agency on the claim or dispute or within 300 Days after Acceptance of the Work by the Agency if no written decision has been issued. For the purposes of this section, "Acceptance of the Work by the Agency" shall be defined as the date the Notice of Completion is filed.

Where an election is made by either party to use the Simplified Claims Procedure provided under Sections 1340-1346 of said Chapter 4, the parties may mutually agree to waive representation by counsel.

All contracts valued at more than \$25,000 between the Contractor and its subcontractors and suppliers shall include a provision that the subcontractors and suppliers shall be bound to the Contractor to the same extent that the Contractor is bound to the Agency by all terms and provisions of the Contract, including this arbitration provision.

#### 6-12 TERMINATION OF AGENCY LIABILITY.

After completion of all work required by the contract, Agency will furnish Contractor a Release on Contract form, in the form in Appendix E, hereto, stating the amount of total authorized payments for the project. Contractor shall execute and return said form within 21 days of receipt. Said form shall release and discharge the Agency from all claims of and liability to the Contractor for all manner of debts, demands, accounts, claims, and causes of action under or by virtue of said Contract except:

- a. The claim against the Agency for the remainder, if any, of the amounts retained as provided in 7-3.2, and any amounts retained as required by Stop Notices or Labor Code provisions.
- b. Any unsettled claims or disputes listed on the Release on Contract form which has been processed in compliance with the requirements for making claims under the Contract, including given timely notice pursuant to the applicable provisions of the Contract and following the procedure set forth in 6-11.

Acceptance of the Release on Contract by the Agency shall not be deemed a waiver or release of the Agency's right to contest either the substantive or procedural validity of any listed unsettled claims or disputes.

When executing the Release on Contract, the Contractor shall certify that each unsettled claim or dispute listed thereon has been processed in compliance with the requirements for making claims under the Contract, including giving timely notice pursuant to the applicable provisions of the Contract and following the procedures for resolution of disputes or claims set forth in 6-11 and that acceptance of the Release on Contract by the Agency shall not be deemed a waiver or release of the Agency's right to contest either the substantive or procedural validity of any listed unsettled claims or disputes.

If Contractor fails to execute and submit a Release on Contract within the 21 day time period set forth above, the Release on Contract shall be deemed to have been submitted with no unsettled claims or disputes listed on the Release on Contract. A payment of \$1.00 will be made to the Contractor for such Release on Contract and waiver.

## **SECTION 7 – MEASUREMENT AND PAYMENT**

### **7-1 MEASUREMENT OF QUANTITIES FOR UNIT PRICE WORK.**

#### **7-1.1 General.**

Unless otherwise specified, quantities of work shall be determined from measurements or dimensions in horizontal planes. However, linear quantities of pipe, piling, fencing, and timber shall be considered as being the true length measured along longitudinal axis.

Unless otherwise provided in Specifications, volumetric quantities shall be the product of the mean area of vertical or horizontal sections and the intervening horizontal or vertical dimension.

#### **7-1.2 Methods of Measurement.**

Materials and items of Work which are to be paid for on the basis of measurement shall be measured in accordance with the methods stipulated in the particular sections involved.

#### **7-1.3 Certified Weights.**

When payment is to be made on the basis of weight, the weighing shall be done on certified platform scales or, when approved by the Engineer, on a completely automated weighing and recording system. The Contractor shall furnish the Engineer with duplicate licensed weighmaster's certificates showing actual net weights. The Agency will accept the certificate as evidence of weights delivered.

### **7-2 LUMP SUM WORK.**

Items for which quantities are indicated as "Lump Sum", "L.S." or "Job" shall be paid for at the price indicated in the Proposal. Such payment shall be full compensation for the items of Work and all Work appurtenant thereto.

When required by the Specifications or requested by the Engineer, the Contractor shall submit to the Engineer within 15 Days after award of Contract, a detailed schedule in triplicate, to be used only as a basis for determining progress payments on a lump sum contract or any designated lump sum bid item. This schedule should equal in total the lump sum bid and shall be in such form and sufficiently detailed as to satisfy the Engineer that it correctly represents a reasonable apportionment of the lump sum. If Mobilization or Water Pollution Control are included in the detailed schedule, those items will be paid for as provided in 7-3.4.2 and 3-12.6.7, respectively.

### **7-3 PAYMENT.**

#### **7-3.1 General.**

The quantities listed in the Bid schedule will not govern final payment unless identified by Agency on the Proposal as [F]. The symbol "[F]" indicates that the quantities shown on the Proposal form are the final pay quantities. Payment to the Contractor (except those items identified as [F]) will be made only for the actual quantities of Contract items constructed in accordance with the Plans and Specifications. Upon completion of construction, if the actual quantities show either an increase or decrease from the quantities given in the Bid schedule, the Contract Unit Prices will prevail subject to the provisions of 7-3.5. Payment for those items identified as [F] will be based on the quantities shown on the Proposal unless changed as provided in 7-3.5.

The unit and lump sum prices to be paid shall be full compensation for the items of work and all appurtenant work, including furnishing all materials, labor, equipment, tools and incidentals.

Payment for items shown on the Plans or required by the Specifications, for which no pay item is

provided, shall be considered included in the prices named for the other items shown on the Proposal.

Payment will not be made for materials wasted or disposed of in a manner not called for under the Contract. This includes rejected material not unloaded from vehicles, material rejected after it has been placed and material placed outside of the Plan lines. No compensation will be allowed for disposing of rejected or excess material.

Whenever any portion of the Work is performed by the Agency at the Contractor's request, the cost thereof shall be charged against the Contractor, and may be deducted from any amount due or becoming due from the Agency.

Whenever immediate action is required to prevent injury, death, or property damage, and precautions which are the Contractor's responsibility have not been taken and are not reasonably expected to be taken, the Agency may, after reasonable attempt to notify the Contractor, cause such precautions to be taken and shall charge the cost thereof against the Contractor, or may deduct such cost from any amount due or becoming due from the Agency. Agency action or inaction under such circumstances shall not be construed as relieving the Contractor or its Surety from liability.

Payment shall not relieve the Contractor from its obligations under the Contract; nor shall such payment be construed to be Acceptance of any of the Work. Payment shall not be construed as the transfer of ownership of any equipment or materials to the Agency. Responsibility of ownership shall remain with the Contractor who shall be obligated to store, protect, repair, replace, rebuild, or otherwise restore any fully or partially completed work or structure for which payment has been made; or replace any materials or equipment required to be provided under the Contract which may be damaged, lost, stolen or otherwise degraded in any way prior to completion of the Work under the Contract, except as provided in 6-5.

Warranty periods shall not be affected by any payment but shall commence on the date equipment or material is placed into service at the written direction of the Engineer. In the event such items are not placed into service prior to partial or final completion of the Work, the warranty periods will commence on the date set forth as the date of field completion in the Engineer's acknowledgement of completion.

If, within the time fixed by law, a properly executed notice to stop payment is filed with the Agency, due to the Contractor's failure to pay for labor or materials used in the Work, all money due for such labor or materials will be withheld from payment to the Contractor in accordance with applicable laws.

At the expiration of 35 Days from the date of recording of the Notice of Completion, or as prescribed by law, the amount deducted from the final estimate and retained by the Agency will be paid to the Contractor except such amounts as are required by law to be withheld by properly executed and filed notices to stop payment, or as may be authorized by the Contract to be further retained.

### 7-3.2 Partial and Final Payment.

The Engineer will, after award of Contract, establish a closure date for the purpose of making monthly progress payments. The Contractor may request in writing that such monthly closure date be changed. The Engineer may approve such request when it is compatible with the Agency's payment procedure.

Each month, the Engineer will make an approximate measurement of the Work performed to the closure date and, as a basis for making monthly payments, estimate its value based on the Contract Unit Prices or as provided for in 7-2. When the Work has been satisfactorily completed, the Engineer will determine the quantity of Work performed and prepare the final estimate.

Work not conforming to the Contract Documents shall not be measured for payment.

Conformance with the Contract Documents shall be, in addition to constructing the Work in accordance with the Contract Documents, the Contractor's compliance with those portions of the Contract Documents not directly related to the completed Work, including but not limited to: construction and maintenance of detours; diversion and control of water; protection and repair of existing facilities of the Agency and adjacent owners; site maintenance; coordination with utilities and other contractors on the site; proper survey procedures and records; obtaining required permits and inspections; complying with working hour limitations; providing a Contractor's representative while Work is being performed; complying with environmental requirements; maintaining access and safety for users of facilities that are to remain in service during construction; and obeying all laws affecting the Work.

Payment for Extra Work will be made only on approved Daily Extra Work Reports with supporting documentation as required in 7.4.

From each progress estimate, not less than five (5) percent will be deducted and retained by the Agency, and the remainder, less the amount of all previous payments, will be paid to the Contractor until acceptance of the performance of the Contract or otherwise stated in the Specifications.

No progress payment made to the Contractor or its sureties will constitute a waiver of the liquidated damages under 6-9.

As provided for in Sections 22300 of the California Public Contract Code, the Contractor may substitute securities for any monies withheld by the Agency to ensure performance under the Contract. In substituting securities, the Contractor may either:

- a. Deposit qualifying securities already owned by the Contractor with the Escrow prior to the Contract payment date, or
- b. Direct the Agency to send retained funds to the Escrow to be invested by the Escrow in qualifying securities as directed by the Contractor.

#### 7-3.2.1 Release of Withheld Contract Funds.

Pursuant to Public Contract Code Section 22300, Contractor has the option to deposit securities with an Escrow Agent as a substitute for retention earnings required to be withheld by Agency pursuant to the construction Contract between the Agency and the Contractor. A form of Escrow Agreement for Security Deposits in Lieu of Retention has been adopted by the Agency as one of the Contract Documents; procedures for implementing the provisions of the Escrow Agreement are contained in (see Appendix D, hereto) Instructions which shall become effective upon exercise of the option by the Contractor.

The Contractor shall take the following steps if it desires to substitute securities:

- a. Execute the Escrow Agreement for Security Deposits in Lieu of Retention.
- b. Furnish to the Escrow Agent a power of attorney and other forms necessary to empower the Escrow Agent to convert the securities to cash.
- c. Furnish to the Escrow Agent the securities described.
- d. Pay the Escrow Agent's fees and costs.

When the Contractor deposits with the Escrow Agent securities in lieu of money required to be withheld from progress payments, a sum of money equivalent to the current cash value of the securities as determined by the Escrow Agent shall be released to the Contractor by, or upon the direction of, the Agency.

If the total of the money plus the current cash conversion value of securities on deposit should fall below the aggregate amount of the sums required to be withheld from progress payments pursuant to 7-3.1 and 7-3.2, an amount equal to the difference shall be withheld from the next regular progress payment in addition to the amount which would ordinarily be withheld pursuant to 7-3.1 and 7-3.2. If the next regular progress payment is less than the total of the amounts to be withheld therefrom, the Contractor shall immediately either deposit with the Agency cash in the amount of the difference or deposit with the Escrow Agent additional securities having a current cash conversion value equal to or greater than the difference.

The Contractor shall be the beneficial owner of any such securities on deposit with the Escrow Agency and shall be entitled to any interest earned thereon prior to conversion. The Agency may direct the Escrow Agency to convert securities with the Escrow Agency into cash, and to deliver the cash to the Agency, in any case where the Contractor is in default, including the following:

- a. where the Agency would be entitled to use funds withheld pursuant to 7-3.1 and 7-3.2 to satisfy claims of workers, materials suppliers or subcontractors, or to complete or correct work which the Contractor has failed or refused to complete or correct, or
- b. where the Contractor has failed to comply with the requirements of this section respecting the deposit of additional cash or securities to make up for a fall in the value of securities already on deposit with the Escrow Agency.

The Agency may hold and use cash resulting from such a conversion of securities in the same manner as it would be entitled to hold and use funds withheld pursuant to 7-3.1 and 7-3.2.

#### 7-3.2.2 Timely Progress Payments.

As required by Public Contract Code Section 20104.50, the Contractor is informed that should a progress payment not be made within 30 Days after receipt of an undisputed and properly submitted payment request from the Contractor, the Agency shall pay interest to the Contractor on the unpaid amount at the rate set forth in the Code of Civil Procedures, Section 685.010(a). Agency shall promptly review payment requests, and if not determined to be proper, document to the Contractor, within 7 Days, the reasons why the request is not proper.

#### 7-3.3 Delivered Materials.

When provided for in the Special Provisions, and subject to the limitation and conditions therein, the cost of materials and equipment delivered but not incorporated into the Work will be included in the progress estimate.

#### 7-3.4 Mobilization.

##### 7-3.4.1 Scope.

Mobilization includes preliminary services, work and operations, including but not limited to, furnishing required bonds, obtaining necessary permits and work areas, providing a specified field office, the movement of labor, supplies, equipment and incidentals to the Work site, and for all other work, services and operations which must be performed or for which costs are incurred prior to performing work of the other Contract items.

##### 7-3.4.2 Payment.

The Contract lump sum price bid for mobilization shall include full compensation for furnishing all labor, materials, tools, equipment, services and incidentals and for doing all work involved in mobilization as specified herein. Payment for mobilization will be made as the Work proceeds on the following basis except that where a field office is required by the Specifications, no payment for mobilization will be made until the specified field office has been provided:

Partial payment estimate (excluding mobilization & water pollution control payments) as a percentage of the original Contract price (excluding the mobilization & water pollution control Bid items).		Cumulative amount of mobilization pay item earned is the lesser of the amounts as computed by these two columns.	
Equal to or greater than	Less than	Percentage of mobilization pay item	Percentage of the original Contract total
5	10	50	5
10	20	75	7.5
20	50	95	9.5
50	Completion of Work	100	10
Completion of Work		100	

Where no Bid item is provided for mobilization, payment for mobilization shall be considered to be included in the other Bid items.

### 7-3.5 Contract Unit Prices.

#### 7-3.5.1 General.

The quantities listed in the Proposal will not govern final payment. Payment to the Contractor will be made only for actual quantities of Contract items constructed in accordance with the Contract Documents.

If a change is ordered in an item of work covered by a Contract Unit Price, and such change does not involve a substantial change in the character of the work from that shown on the Plans or specified in the Specifications, then an adjustment in payment will be made. This adjustment will be based upon the increase or decrease in quantity and the Contract Unit Price.

If the actual quantity of an item of work covered by a Contract Unit Price and constructed in conformance with the Plans and Specifications varies from the Bid quantity by 25 percent or less, payment will be made at the Contract Unit Price. If the actual quantity of said item of work varies from the Bid quantity by more than 25 percent, payment will be made per 7-3.5.2 or 7-3.5.3, as appropriate.

If a change is ordered in an item of work covered by a Contract Unit Price, and such change does involve a substantial change in the character of the work from that shown on the Plans or specified in the Specifications, an adjustment in payment will be made per 7-3.7.

#### 7-3.5.2 Increases of More Than 25 Percent.

Should the actual quantity of an item of work covered by a Contract Unit Price and constructed in conformance with the Plans and Specifications, exceed the Bid quantity by more than 25 percent, payment for the quantity in excess of 125 percent of the Bid quantity will be made on the basis of an adjustment in the Contract Unit Price mutually agreed to by the Contractor and the Agency, or at the option of the Engineer, on the basis of Extra Work.

The Extra Work basis of payment shall not include fixed costs. Fixed costs shall be deemed to have been recovered by the Contractor through payment for 125 percent of the Bid quantity at the Contract Unit Price.

#### 7-3.5.3 Decreases of More Than 25 Percent.

Should the actual quantity of an item of work covered by a Contract Unit Price, and constructed in conformance with the Plans and Specifications, be less than 75 percent of the Bid quantity, an adjustment in payment will not be made unless so requested in writing by the Contractor. If the Contractor so requests, payment will be made on the basis of an adjustment in the Contract Unit Price mutually agreed to by the Contractor and the Agency, or at the option of the Engineer, on the basis of Extra Work; however, in no case will payment be less than would be made for the actual quantity at the Contract Unit Price nor more than would be made for 75 percent of the Bid quantity at the Contract Unit Price.

#### 7-3.6 Stipulated Unit Prices.

Stipulated unit prices are those established by the Agency in the Contract Documents, as distinguished from Contract unit prices submitted by the Contractor. Stipulated unit prices may be used for the adjustment of Contract changes.

#### 7-3.7 Non-Agreed Prices.

Agency may issue a change order directing the Contractor to proceed at a price set by the Agency or on the basis of Extra Work. If the Agency sets a price for the work covered by the change order, Contractor is entitled to payment for such work in accordance with 7-4 to the extent payment in accordance with 7-4 exceeds the price set by the Agency.

#### 7-3.8 Eliminated Items.

Should any Bid item be eliminated in its entirety, payment will be made to the Contractor for its actual costs incurred in connection with the eliminated item prior to notification in writing from the Engineer so stating its elimination.

If material conforming to the Plans and Specifications is ordered by the Contractor for use in the eliminated item prior to the date of notification of elimination by the Engineer, and if the order for that material can not be canceled, payment will be made to the Contractor for the actual cost of the material. In this case, the material shall become the property of the Agency. Payment will be made to the Contractor for its actual costs for any further handling. If the material is returnable, the material shall be returned and payment will be made to the Contractor for the actual cost of charges made by the supplier for returning the material and for handling by the Contractor.

Actual costs, as used herein, shall be computed on the basis of Extra Work.

### 7-4 PAYMENT FOR EXTRA WORK.

#### 7-4.1 General.

When the cost for Extra Work cannot be agreed upon, the Agency will pay for Extra Work based on the accumulation of costs as provided herein.

#### 7-4.2 Basis for Establishing Costs.

##### 7-4.2.1 Labor.

The cost of labor shall be the actual cost for wages of workers performing the Extra Work at the time the Extra Work is done, plus employer payments of payroll taxes, workers compensation insurance, liability insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs, resulting from Federal, State, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements.

The use of a labor classification which would increase the Extra Work cost will not be permitted unless the Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental. The labor cost for foremen shall be proportioned to all of their assigned work and only that applicable to the Extra Work will be paid.

Nondirect labor costs, including superintendence, shall be considered part of the markup specified in 7-4.3.

#### 7-4.2.2 Materials.

The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the Work site in the quantities involved, plus sales tax, freight, and delivery. The Agency reserves the right to approve materials and sources of supply, or to supply materials to the Contractor if necessary for the progress of the Work. No markup shall be applied to any material provided by the Agency.

#### 7-4.2.3 Tool and Equipment Rental.

No payment will be made for the use of tools which have a replacement value of \$200 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the Extra Work is performed.

The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the Extra Work shall be included.

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Agency than holding it at the Work site, it shall be returned, unless the Contractor elects to keep it at the Work site, at no expense to the Agency.

All equipment shall be acceptable to the Engineer, in good working condition, and suitable for the purpose for which it is to be used.

The reported rental time for equipment already at the Work site shall be the duration of its use on the Extra Work. This time shall begin when the equipment is first used on the Extra Work, plus the time required to move it from its previous site and back, or to a closer site.

#### 7-4.2.4 Other Items.

The Agency may authorize other items which may be required on the Extra Work, including labor, services, material, and equipment. These items must be different in their nature from those required for the Work, and be of a type not ordinarily available from the Contractor or Subcontractors.

#### 7-4.2.5 Invoices.

Vendors' invoices for material, equipment rental and other expenditures shall be submitted with the daily report per 7-4.4. If the daily report is not substantiated by invoices or other documentation, the Agency may establish the cost of the item involved at the lowest price which was current at the time of the report.

### 7-4.3 Markup.

#### 7-4.3.1 Work by the Contractor.

Unless otherwise specified in the Special Provisions, a reasonable allowance for overhead and profit shall be added to the Contractor's costs as determined in accordance with 7-4.2 and shall constitute the markup for all overhead and profit on Extra Work done by the Contractor. The Contractor shall also be compensated as specified in the Special Provisions for the actual increase in the Contractor's bond premium caused by the Extra Work.

#### 7-4.3.2 Work by a Subcontractor.

When any of the Extra Work is performed by a Subcontractor, the markup established in 7-4.3.1 shall be applied to the Subcontractor's costs as determined in accordance with 7-4.2. Unless otherwise specified, a reasonable allowance for the Contractor's overhead and profit shall be added to the sum of the Subcontractor's costs and markup and shall constitute the markup for all overhead and profit for the Contractor on Extra Work done by the Subcontractor.

### 7-4.4 Daily Reports.

When the cost for the Extra Work cannot be agreed upon, the Contractor shall submit a daily report to the Engineer on forms approved by the Agency. Applicable delivery tickets, listing all labor, materials, and equipment involved for that day, and other services and expenditures when authorized shall be included. Failure to submit the daily report by the close of the next Working Day may waive any rights for that day. An attempt shall be made to reconcile the report daily, and it shall be signed by the Engineer and the Contractor. In the event of a disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by Subcontractors or others shall be submitted through the Contractor.

The report shall:

- a) List the names of workers, classifications, and hours worked.
- b) Describe and list quantities of materials used.
- c) List the type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable.
- d) Describe other services and expenditures in such detail as the Agency may require.

### 7-5 Payment for Changes Requested by the Contractor.

If such changes are approved by the Engineer pursuant to 2-6, approval will only be made based upon a reduction in cost or no additional cost to the Agency. All costs to the Agency in reviewing the proposed change, or testing materials involved therein, shall be paid for by the Contractor, whether or not the change is approved.

## **SECTION 8 - FACILITIES FOR AGENCY PERSONNEL**

### **8-1 GENERAL.**

Facilities provided for Agency personnel shall be at locations approved by the Engineer. Such facilities must be in a room, building, or trailer provided for this purpose with acceptable means for locking.

A Class "A" Field Office conforming to 8-2.1 shall be provided at any offsite plant facility furnishing pipe subject to Agency inspection during manufacture. A field laboratory conforming to 8-3.1 shall be provided at any offsite or Work site plant facility furnishing Portland cement concrete or asphalt concrete pavement. Any other facilities for Agency personnel shall be provided only when required by the Contract Documents.

Offices and laboratories at plants may be used concurrently by inspection personnel of other agencies provided such use does not seriously conflict with Agency use. When facilities are shared in this manner, at least one locker provided with a hasp for a padlock must be available for the exclusive use of the Agency. Otherwise, any facilities furnished are for the exclusive use of the Agency.

Facilities shall conform to the applicable codes, ordinances, and regulations of the local jurisdiction and of the State of California and shall conform to current practice. The interior shall be paneled or suitably lined to provide a facility of good appearance.

The Contractor shall provide janitorial and other maintenance services in all types of facilities provided. Such services shall include the supply of the appropriate paper products and dispensers. Trash receptacles shall be provided and emptied by the Contractor at weekly intervals or sooner as required. The trash shall be removed from the Work site.

### **8-2 FIELD OFFICE FACILITIES.**

#### **8-2.1 Class "A" Field Office.**

The office shall have a minimum floor space of 175 square feet (16 m<sup>2</sup>), at least one door, and window area of not less than 22 square feet (2 m<sup>2</sup>). All doors and windows shall be provided with screens.

Furniture shall be provided as follows: one plan table, one standard 5-foot (1.5 m) long double-pedestal desk with a drawer suitable for holding files, 2 chairs, one drafting stool, and one plan rack.

Electric power shall be provided to include a minimum of 4 duplex convenience outlets. The office shall be illuminated at the tables and desk. An outdoor lighting fixture with a 300W bulb shall be installed.

Heating and air conditioning of sufficient capacity shall be provided at no expense to the Agency. The Contractor shall provide drinking water within the office and integral sanitary facilities directly adjoining. Sanitary facilities shall include a toilet and wash basin with hot and cold running water.

Extended area, non-coin-operated telephone service shall be provided within the office area. The installation shall include sufficient extension cord to serve the plan table and desk.

#### **8-2.2 Class "B" Field Office.**

The office shall be the same as class "A" except that integrated sanitary facilities and air conditioning are not required. A chemical toilet facility shall be provided adjacent to the office.

### 8-2.3 Class "C" Field Office.

The office shall have a minimum floor space of 120 square feet (11 m<sup>2</sup>) of floor area. It shall be equipped with one 3-foot x 5-foot (0.9 m x 1.5 m) table, 4 chairs and one plan rack. It shall be adequately heated, ventilated, and lighted and 2 duplex convenience outlets shall be provided. Air conditioning, telephones, and sanitary facilities are not required.

## 8-3 FIELD LABORATORIES.

### 8-3.1 Offsite at Manufacturing Plant.

Field laboratories shall conform to the requirements for a Class "C" Field Office specified in 8-2.3 except for the following:

- a) Telephone service as specified in 8-2.1.
- b) Chair.
- c) Work table, 4 feet x 10 feet (1.2 m x 3 m), 3 feet (0.9 m).
- d) Sieves per 203-6.
- e) Scales and weights.
- f) Burner plate for heating samples.
- g) Thermometer, with 200 to 400°F (90 to 260°C) degree range (asphalt concrete plants only).
- h) Air meter for concrete in accordance with ASTM C231 of the type that indicates the percentage of air directly (precast concrete plants only).

Sampling and testing equipment shall be maintained in satisfactory operating condition by the Contractor or the plant owner. Laboratories shall be located immediately adjacent to and with full view of batching and loading operations.

### 8-3.2 At the Work Site.

Field laboratories shall conform to 8-3.1, except that sieves, scales, weights, burner plates, sampling devices, pans, and thermometers will be furnished by the Agency at no expense to the Contractor. If air entraining admixtures are being used in the concrete on the Work, an air meter of the type specified in 8-3.1 shall be furnished by the Contractor.

## 8-4 BATHHOUSE FACILITIES.

When the Special Provisions require bathhouse facilities, the following shall be provided:

- a) One lavatory with hot and cold water.
- b) One toilet in a stall.
- c) One 3-foot (1 m) trough-type urinal.
- d) One enclosed shower at least 3 feet x 3 feet (1 m x 1 m) with hot and cold water.
- e) One bench, 6 feet (2 m) long.
- f) Soap dispensers.
- g) Toilet paper holders.
- h) Paper towel cabinet.
- i) Wastepaper receptacle.

These facilities shall be serviced and provided with necessary sanitary supplies.

These facilities shall be for the exclusive use of Agency personnel. However, a separate building

need not be provided for this purpose if such facilities are located in a separate room in a building which includes other facilities.

#### **8-5 REMOVAL OF FACILITIES.**

Field offices, laboratories, and bathhouse facilities at the Work site shall be removed upon completion of the Work. Buildings and equipment furnished by the Contractor at the Work site under the provisions of this subsection shall remain the property of the Contractor.

#### **8-6 BASIS OF PAYMENT.**

Payment for furnishing, maintaining, servicing, and removing field offices laboratories, or bathhouse facilities required at the Work site shall be included in the Bid item for furnishing such facilities. If such facilities are required by the Plans in the Special Provisions and no Bid item is provided in the Proposal, the costs shall be payment will be considered as included in other Bid items. Such costs incurred in connection with offices and laboratories at plants shall be borne by the plant owners.

The first progress payment will not be approved until all facilities are in place and fully comply with the Specifications.

# Appendices

# Appendix A ACORD Certificate of Liability Insurance



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A:	
INSURED	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b>						
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE \$ See VCSS 5-4.2.2
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$ See VCSS 5-4.2.2
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COM/OP AGG \$
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$ 1,000,000
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$ 1,000,000
	<input type="checkbox"/> HIRED AUTOS						
	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	DED RETENTION \$						
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Agency) -(Project Name) (Project Specification Number)  
 The Agency and the County of Ventura, including its boards, all special Districts governed by the Board of Supervisors, agencies, departments, officers, Consultants, employees, agents and volunteers, is named as Additional Insured as respects work done by the Contractor under terms of the contract on General Liability and Auto Liability Policies. Waiver of Subrogation is applicable to the Agency and the County of Ventura, its boards, agencies, Departments, officers, employees, agents and volunteers for Work Comp and General Liability. Endorsements required for reference contract will be Issued by the Insurance Company.

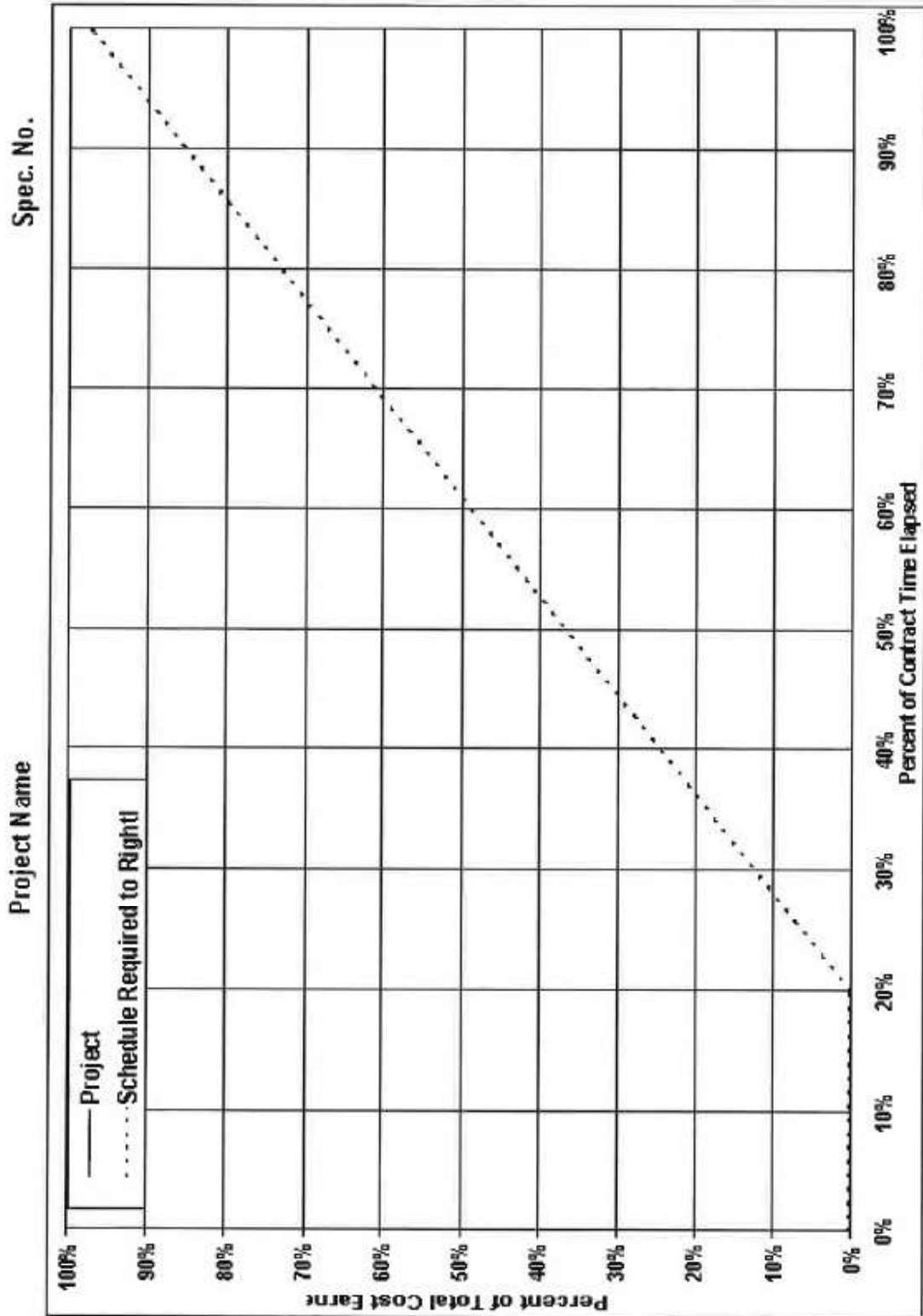
<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
County of Ventura Public Works Agency L-1670 800 South Victoria Avenue Ventura, CA 93009-1670	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE

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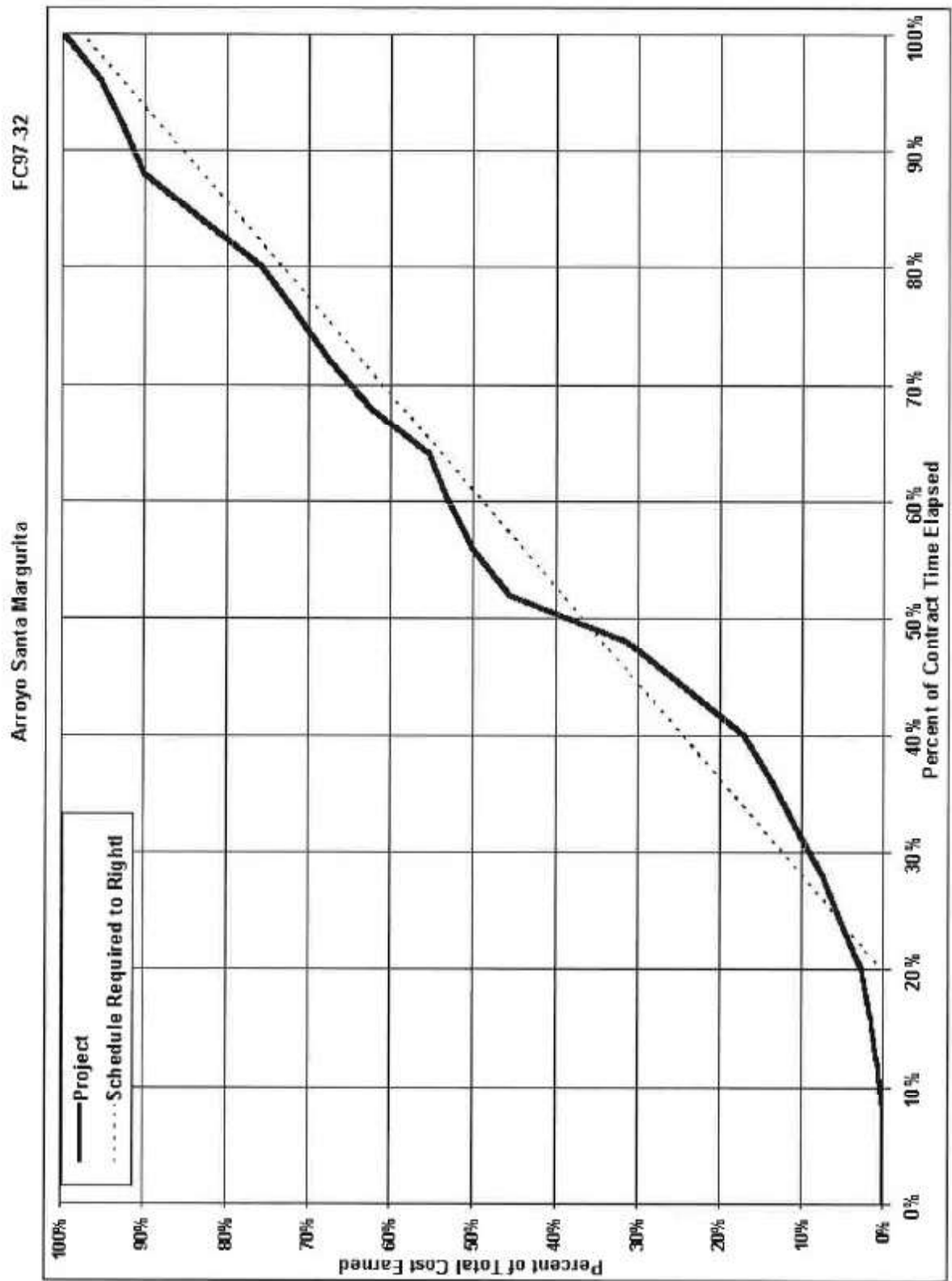
ACORD 25 (2010/05)

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Project:		Contractor:	Specification No:
Item No.	Work or Material	WORKING DAYS OF CONSTRUCTION CONTRACT TIME	
		EACH HORIZONTAL INTERVAL EQUALS _____ WORKING DAYS OF CONTRACT TIME	
		Submitted _____	
		By _____	
		Title _____	
		Contractor _____	
		Date _____	







## Appendix D Escrow Agreement Form Sample

### ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between \_\_\_\_\_ ("**Agency**",  
**per the Contract**) whose address is \_\_\_\_\_ and \_\_\_\_\_ ("**Contractor**") whose  
address is \_\_\_\_\_  
and \_\_\_\_\_ ("**Escrow Agent**") whose address is \_\_\_\_\_.

For the consideration hereinafter set forth, the Agency, Contractor and Escrow Agent agree as follows:

- (1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Agency pursuant to the Construction Contract entered into between the Agency and Contractor for the construction of Name in the amount of \_\_\_\_\_ dated \_\_\_\_\_, (hereinafter referred to as the "Contract") which Contract is identified by Spec. No. \_\_\_\_\_ and Auditor Controller's Contract No. \_\_\_\_\_. Alternatively, on written request of the Contractor, the Agency shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Agency within ten days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Agency and Contractor. Securities shall be held in the name of "**Agency**", \_\_\_\_\_, and shall designate the Contractor as the beneficial owner.
- (2) The Agency shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
- (3) When the Agency makes payments of retention earned directly to Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Agency pays the Escrow Agent directly.
- (4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Agency, Contractor and Escrow Agent.
- (5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Agency.
- (6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Agency to the Escrow Agent that Agency consents to the withdrawal of the amount sought to be withdrawn by Contractor.
- (7) The Agency shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the Agency of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Agency.
- (8) Upon receipt of written notification from the Agency certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, the Escrow Agent shall release to the Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.
- (9) Escrow Agent shall rely on the written notifications from the Agency and the Contractor pursuant to Sections (1) to (8), inclusive, of this Agreement and the Agency and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Agency and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Agency:

\_\_\_\_\_, Director,  
Public Works Agency

\_\_\_\_\_, Director  
Central Services

\_\_\_\_\_, Director  
Engineering Services

Address for all of the above:  
Public Works Agency-ESD L1670  
800 South Victoria Avenue  
Ventura, CA 93009-1670

**SAMPLE FORM**  
Form used for escrow will have names and  
signatures of persons authorized in accordance  
with paragraph 10.

On behalf of Contractor:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City & State

\_\_\_\_\_  
Zip Code

On behalf of Escrow Agent:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City & State

\_\_\_\_\_  
Zip Code

At the time the Escrow Account is opened, the Agency and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Agency:  
(Agency name)

Contractor:  
(Contractor company name)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

**EXHIBIT "A"**  
**ESCROW INSTRUCTIONS**

The parties to this escrow are \_\_\_\_\_ ("Agency") and \_\_\_\_\_ ("Contractor") and \_\_\_\_\_ ("Escrow Agent"). Agency and Contractor have entered into a contract for the construction of \_\_\_\_\_ which contract is identified by Spec. No. \_\_\_\_\_ and Auditor-Controller's Contract No. \_\_\_\_\_ and was entered into by and between Agency and Contractor ("Construction Contract"). Pursuant to Public Contract Code Section 22300, Contractor may substitute certain securities for an equivalent amount of money required to be withheld from progress payments by Agency to Contractor pursuant to the Construction Contract.

The Escrow Agent is hereby instructed as follows:

1. Contractor may deliver to Escrow Agent:
  - (a) Securities of the types specified in Sections 22300 of the Public Contract Code and Section 16430 of the Government Code.
  - (b) Such other documents as are necessary to enable Escrow Agent to convert such securities into cash.
2. Upon receipt of such securities and other documents, Escrow Agent shall notify Agency within ten days of the deposit, and shall examine them to determine whether they are in a form sufficient to effect conversion of the securities into cash. Escrow Agent shall thereupon send written notice of its determination to Agency.
3. Escrow Agent shall hold such securities as trustee for Agency. The right of Agency to such securities is superior to any other lien or claim of lien; provided, however, that Contractor shall be entitled to any interest earned by such securities prior to their conversion to cash pursuant to section 5 hereof, and further provided that such interest may be withdrawn by Contractor at any time and from time to time without notice to Agency.

Securities may be substituted by Contractor, but any securities substituted for securities previously deposited shall not reduce the current cash value of securities held below that last reported to Agency by Escrow Agent.

4. Escrow Agent shall determine the current cash value of such securities held by it as of the close of business on the first business day following the \_\_\_\_\_ day of each month and, in addition, on any other days which the Agency may from time to time specify in a written notice to Escrow Agent. Current cash value shall be determined as follows:
  - (a) For securities traded over-the-counter or on a stock exchange:
    - (1) Determine either the current bid price for the securities as of the close of business or the face value of the securities, whichever is less.
    - (2) Subtract the cost of sale (broker commission).
    - (3) Subtract all unpaid escrow fees and costs associated therewith.
  - (b) For certificates of deposit:
    - (1) Determine the face amount.
    - (2) Subtract the potential interest penalty for immediate conversion.
    - (3) Subtract all unpaid escrow fees and costs associated therewith.
  - (c) Determine the value of other securities by procedures calculated to determine net realizable value. Promptly upon making each such determination, Escrow Agent shall notify Agency of the securities held and current cash value of such securities.
5. At any time or times that Agency believes it has a right to do so under the provisions of the Construction Contract, Agency may, without the consent of Contractor, deliver to Escrow Agent a written demand that Escrow Agent convert to cash all or any part of such securities. Upon seven days' written notice from Agency of such demand,

Escrow Agent shall convert to cash all or part of such securities as demanded and shall distribute the cash as instructed by the Agency.

6. When the Construction Contract has been satisfactorily completed on the part of Contractor and any stop notices filed against the Construction Contract have been released, Agency shall give written notice to Escrow Agent that such securities may be returned to Contractor. Upon receipt of such written notice and payment of all escrow fees and costs, the Escrow Agent shall deliver to Contractor all money, interest, securities and other documents remaining in escrow and the escrow shall terminate.
7. Contractor, and not Agency, shall be liable to Escrow Agent for all of Escrow Agent's fees and costs associated with this escrow.
8. The Director of the Ventura County Public Works Agency, a Deputy Director of said Agency, or other person authorized in writing by such Director or Deputy Director is authorized to give written notice and to make written demands on behalf of Agency pursuant to sections 4, 5 and 6 hereof.
9. All written notices and demands pursuant to the escrow agreement and these Instructions shall be addressed as follows:

(a) To Agency:

Director, Ventura County Public Works Agency  
Engineering Services Department  
800 South Victoria Avenue  
Ventura, California 93009-1670

(b) To Contractor:

(c) To Escrow Agent:

DATED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

**Note: lines above By\_\_\_\_\_ is the signature line**

AGENCY

CONTRACTOR

ESCROW AGENT

Bank Charter: State [ ]  
Federal [ ]

Escrow Agent's Address:

\_\_\_\_\_  
\_\_\_\_\_

## Appendix E Release on Contract Form

### **RELEASE ON CONTRACT**

Project Name: \_\_\_\_\_

Specification No. \_\_\_\_\_; Project No. \_\_\_\_\_

WHEREAS, by the terms of the contract dated \_\_\_\_\_ entered into by \_\_\_\_\_ and the undersigned CONTRACTOR,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

undersigned CONTRACTOR agreed to perform certain work for the compensation specified in said contract; and

WHEREAS, the CONTRACTOR represents that said work is fully completed and that final payment is due to the CONTRACTOR under terms of said contract,

NOW, THEREFORE, in consideration of the promises and the payment by \_\_\_\_\_ to the CONTRACTOR of the amount due under the contract, to wit, the sum of \$ \_\_\_\_\_ and the additional consideration of \$1.00, receipt of which is hereby acknowledged by the CONTRACTOR, the CONTRACTOR hereby releases and forever discharges \_\_\_\_\_ of and from all manner of debts, dues, demands, sum or sums of money, accounts, claims and causes of action, in law and in equity, under or by virtue of said contract except the claim against the Agency for the remainder, if any, of the amounts retained as provided in 7-3.2, any amounts retained as required by Stop Notices or Labor Code provisions, and any unsettled claims or disputes as follows: (If none, leave blank)

<u>Description of Claim or Dispute</u>	<u>Amount</u>	<u>Date of Claim</u>	<u>Date of Notice of potential Claim</u>
--	---------------	--------------------------	--

The CONTRACTOR certifies that each unsettled claim or dispute listed hereon has been processed in compliance with the requirements for making claims under the contract, including giving notice pursuant to the applicable provisions of the contract, and following the procedures for resolution of disputes or claims set forth in subsection 6-12 of the contract. Acceptance of this Release on Contract by the \_\_\_\_\_ shall not be deemed as a waiver or release of its right to contest either the substantive or procedural validity of any listed unsettled claims or disputes.

IN WITNESS WHEREOF, the hand and seal of the CONTRACTOR have been hereunto set this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THIS FORM MUST BE ACCOMPANIED  
by a proper acknowledgement form  
(See Civil Code Section 1189)

Contractor

By \_\_\_\_\_

Title \_\_\_\_\_

## Appendix F Performance and Payment Bond – Sample Showing Wording

Bond No. \_\_\_\_\_

### **SURETY BONDS PERFORMANCE BOND**

Whereas, the «Agency», hereinafter called "Agency", and «Contr», hereinafter called "principal", have entered into a contract dated «ContrDate» whereby principal agrees to complete certain designated work identified as project «ProjName» (Spec. No. «SpecNo»), and to perform other duties and obligations as described in said contract, which is incorporated herein by this reference and made a part hereof; and

Whereas, principal is required under the terms of said contract to furnish a bond to guarantee principal's faithful performance of the work and all terms and conditions of the contract;

Now, therefore, we the principal and the undersigned, as corporate surety, are held and firmly bound unto Agency in the penal sum of «CostText» (\$«OrigCostFmtd») lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and provisions in the said contract and any alteration thereof made as therein provided, on principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The above obligation shall continue after Agency's acceptance of the work for the duration of the warranty period as specified in the contract during which time if principal fails to make full, complete, and satisfactory repair or replacement to the work and/or fails to protect Agency from loss or damage resulting from or caused by defective materials or faulty workmanship, the obligation of surety hereunder shall continue so long as any obligation of principal remains.

### **PAYMENT BOND**

And, whereas, under the terms of said contract, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, said principal and the undersigned, as corporate surety, are held firmly bound unto the Agency and all contractors, subcontractors, laborers, material suppliers and other persons employed in the performance of the aforesaid contract and referred to in the aforesaid Civil Code in the like sum of «CostText» (\$«OrigCostFmtd») for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any amounts required to be deducted, withheld and paid over to the Franchise Tax Board from the wages of employees of the contractor and the contractor's subcontractors, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees including reasonable attorney's fees incurred in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should this condition of this bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

### **GENERAL TERMS**

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said contract or the plans and specifications accompanying the same shall in any manner affect its obligations on these bonds, and it does hereby waive notice of any such change, extension, alteration or addition.

Nothing herein shall limit the Agency's rights or surety's obligations under the contract or applicable law, including, without limitation, California Code of Civil Procedure section 337.15.

In witness whereof, this instrument has been duly executed by the principal and surety above named

on \_\_\_\_\_, 202\_

«Contr»  
Name of Principal

By \_\_\_\_\_

Title \_\_\_\_\_

Name of Surety

By \_\_\_\_\_

Attorney-in-Fact

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

INDICATE COMPLETE ADDRESS OF SURETY TO WHICH CORRESPONDENCE  
CONCERNING THIS BOND SHOULD BE DIRECTED.

### **SAMPLE BOND FORM**

Agency will prepare the bond in this format and transmit it to the Contractor along with the Contract and the Notice of Award letter.

Surety shall fill in the Bond No., date identification, and signature of surety in places provided.

Contractor shall sign and indicate title in place provided.

Telephone No. \_\_\_\_\_

A-467/9-Tmpl

Contractors are required by law to be licensed and regulated by the contractors' state license board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the registrar, contractors' state license board, P.O. Box 26000, Sacramento, California 95826. Per B&P Code §7030(a)

## CONTRACT

PROJECT: «ProjName»

SPECIFICATION NO.«SpecNo»; PROJECT NO. «ProjNo»

The names and addresses of the parties to this contract, who shall be referred to as "Agency" and "Contractor" respectively, are as follows:

AGENCY: «Agency»  
800 South Victoria Avenue  
Ventura, CA 93009

CONTRACTOR: «Contractor Name»  
«Contractor Street Address»  
«Contractor City» «Contractor Zip»

The Agency and the Contractor mutually agree on «Date» as follows:

### 1. CONTRACT DOCUMENTS

This contract consists of the Contract Documents as defined in Standard Specification 1-2, which include the following documents and represents the complete agreement between Agency and Contractor:

- (a) Notice Inviting Bids
- (b) Proposal form and Notice to Bidders.
- (c) Plans and Specifications identified by Specification No\_\_.
- (d) Addenda, by number and date -
- (e) Award of Contract
- (f) Performance and Payment Bond
- (g) Prevailing Wage Requirements.
- (h) W-9 form

### 2. DESCRIPTION OF WORK

The Contractor shall perform and complete in strict conformity with this contract, the work as described and shown in, and reasonably inferable from, the Contract Documents, consisting generally of:

### 3. CONTRACT PRICE

The contract price, which is the amount which Contractor shall accept as full payment for the work above agreed to be done, are the amounts determined in accordance with the contract documents for the prices stated for lump sum items completed plus the total number of each of the units of work completed at the unit prices stated. The prices named in the proposal form are as follows:

4. The time for the completion of the Work is «NumWD» working days from the contract starting date as provided in the contract documents and shown in the Notice to Proceed.

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

Contractor's Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Contractor's License No. \_\_\_\_\_ Expiration Date \_\_\_\_\_

Social Security No. or Taxpayer I.D. No. \_\_\_\_\_

Type of Contractor's organization \_\_\_\_\_  
(Corporation / Partnership / Individual)

List names of all persons who have authority to bind firm (List at least one name):

\_\_\_\_\_

IF OTHER THAN CORPORATION, EXECUTE HERE

Signature \_\_\_\_\_

IF CORPORATION, FILL OUT FOLLOWING AND EXECUTE

Name of President of Corporation \_\_\_\_\_

Name of Secretary of Corporation \_\_\_\_\_

Corporation is organized under the laws of State of \_\_\_\_\_

Signature \_\_\_\_\_

Title of Office \_\_\_\_\_

«Agency», Agency

By \_\_\_\_\_

Public Works Agency Director

# | SPECIAL PROVISIONS

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COYOTE CREEK PILOT CHANNEL  
(STRUCTURE DEMOLITION)

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## **SECTION 1000**

### **GENERAL RESPONSIBILITIES OF THE CONTRACTOR**

#### **Bid Item No. 1**

##### **1000-1 SCOPE**

General responsibilities and miscellaneous administrative requirements shall be complied with as specified in the Standard Specifications, the plans, and these Special Provisions.

##### **1000-2 PRE-BIDDING CONFERENCE**

The pre-bid conference will be held at the place and time indicated on Page 1 of the Proposal for the purpose of answering any questions concerning the project. None of the information transmitted at this meeting will be construed to in any way modify the plans and specifications. Any modifications will be forwarded to all plan holders as an addendum.

##### **1000-3 CONTRACTOR'S REPRESENTATIVE**

The Contractor to whom the contract is awarded shall provide the following information in writing and submit it at the time and concurrently with the signed contract, contract bonds, and certificates of insurance. Failure to comply may result in delays in the processing of the contract documents.

1. Name of authorized representative at the job site.
2. Address and telephone number where the above person can be reached.
3. Address of the nearest office of the Contractor, if any, and the name and telephone number of a person at that office who is familiar with the project.
4. Address and telephone number of the Contractor's main office and the name and telephone number of the person at that office familiar with the project.

##### **1000-4 CONSTRUCTION SCHEDULE**

In addition to the requirements of 6-1, the following shall apply: An updated construction schedule shall be submitted monthly prior to each progress

payment closure date. Processing of progress payments will be delayed until the schedule complying with this Special Provision and the Standard Specification is received and approved. If the Contractor intends to submit a computer-generated schedule, it shall be generated in Microsoft Project, and submitted in electronic and hard copy forms.

1000-5

#### **COORDINATION WITH DEMOLITION WORK**

The Contractor shall be fully responsible for cooperating and coordinating his work activities that affect any work done or to be done by others, including but not limited to the construction of the pilot channel within the project's limits. The Agency will bid out two different phases for this project two weeks apart. One phase will be awarded to an earthwork contractor and the second phase will be awarded to a demolition contractor. First the earthwork contractor will construct a temporary ramp and clear dirt and debris off existing concrete driveway. After the temporary ramp is constructed and driveway is exposed, the demolition contractor shall mobilize and begin demolition work. After demolition is completed per plan, the demolition contractor shall notify the earthwork contractor.

1000-6

#### **SECURE WORK AREA**

It is the responsibility of the Contractor to maintain safe and secure work areas at all times. Safe work areas will include the use of barricades, guards, temporary fencing, lights, signs, and any other devices necessary to protect the public.

1000-7

#### **REMOVAL AND DISPOSAL OF MATERIALS**

Materials to be disposed of shall not be stored at the site, but shall be removed immediately. No storage of debris will be allowed in the street or surrounding areas.

The Contractor shall dispose of all materials at a County recognized recycling/buy back facility or an approved site in accordance with local ordinances. All hazardous materials shall be handled and disposed of in accordance with Federal, State, and local ordinances. The Contractor shall absorb all costs related to handling and disposal of all materials, including hazardous materials.

1000-8      **WATER FOR CONSTRUCTION**

The Contractor shall make independent arrangements for water supply at the construction site at his/her expense.

1000-9      **EQUIPMENT AND MATERIALS STORAGE**

The Contractor shall arrange and maintain a secure storage site for all equipment, tools, supplies, and materials. The proposed storage site shall be submitted to the Project Engineer for approval before it may be used. All equipment and unused materials shall be returned to this site at the end of each workday. All deliveries of materials to the job site shall be planned and executed so that traffic is not obstructed or interfered with in any fashion.

Construction and stored equipment and supplies shall not be permitted within the road rights-of-way and shall not obstruct access to residences or businesses, nor shall sight distance be restricted by stored equipment and supplies.

1000-10      **CONSTRUCTION SITE MAINTENANCE**

In accordance with Section 3-12 of the Standard Specifications, the contractor shall provide the means to maintain a construction site free from dust and excessive noise. The Contractor is required to control dust during the entire contract period, including holidays and weekends.

If the Contractor fails to maintain a clean construction site in accordance with these specifications, the Agency reserves the right to hire another Contractor or agency to perform this work on a "force account" basis. The cost of performing this work will be deducted from the total contract price at final payment.

1000-11      **AIR QUALITY MITIGATION MEASURES**

The Contractor shall be responsible to implement the following Air Quality Mitigation Measures for this project as follows:

- Off-road equipment with engines larger than 50 horsepower shall have engines that meet or exceed U.S. Environmental Protection Agency (USEPA) / California Air Resources Board (CARB) Tier 3 Emissions Standards. Exceptions will be allowed only on a case by case basis for three specific situations: (1) an off-road equipment item that is a specialty, or unique, piece of equipment that cannot be found with a Tier 3 or better engine after a due diligence search; and/or (2) an off-

road equipment item that will be used for a total of no more than five (5) days; and/or (3) the off-road equipment is registered under CARB's Statewide Portable Equipment Registration Program. Additionally, all off-road equipment engines shall be maintained in good operating condition and in tune per manufacturers' specification, and equipment idling shall be limited to no more than five (5) minutes unless needed for proper operation.

- All non-employee on-road vehicle engines shall be turned off when not in use. Engine idling shall not exceed five (5) minutes unless required for proper operation. All non-employee on-road vehicle engines shall be maintained in good operating condition and in tune per manufacturers' specification.
- Apply environmentally safe chemical stabilization, which can be water or other non-toxic soil binder(s), at sufficient concentration and frequency to maintain a stabilized surface starting from the point of intersection with public paved surface to the working areas of the Project site, with an acceptable width to accommodate traffic ingress and egress from the site.
- The area disturbed by clearing, excavation, earth moving, surface disturbance, and grading operations shall be minimized to the extent feasible to prevent excessive dust generation.
- Pre-water areas to be graded or excavated, and water during grading/excavation activities so that soils being handled are moist (12 percent moisture or greater).
- Install a properly functioning and well-maintained track-out control device(s) that prevents track-out of soil onto paved public roads.
- Remove track-out from pavement as soon as possible but no later than one hour after it has been deposited on the paved road.
- Disturbed soils and soil piles shall be watered as necessary to reduce fugitive dust emissions.
- Clearing and grading activities shall cease during periods of high winds (25 miles per hour for more than 5 minutes in any hour).
- Silt-containing material excavated, stockpiled or transported during construction shall be watered as necessary to reduce fugitive dust emissions.
- Trucks transporting earth material off-site shall be covered using properly secured tarps or covering that covers the entire surface area of the earthen fill, or other fine bulk material loads.
- Limit vehicle speeds, including off-road scrapers, on unpaved roads and work areas to 15 mph. Speed limit signs shall be posted on site at points of ingress to unpaved areas and within the unpaved work areas.

1000-12

## **ARCHEOLOGICAL RESOURCES**

Archeological and Paleontological discoveries shall conform to Section 6-6.2 of the VCSS.

If human remains are unearthed, State Health and Safety Code Section 7050.5 require that no further disturbance shall occur until the Ventura County Coroner has made the necessary findings as to the origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will identify the most likely descendant (MLD), who will be responsible for the ultimate disposition of the remains, as required by PRC Section 5097.98. The MLD should make his/her recommendation within 48 hours of their notification by the NAHC. This recommendation may include (A) non-destructive removal and analysis of human remains and items associated with Native American human remains; (B) preservation of Native American human remains and associated items in place; (C) relinquishment of Native American human remains and associated items to the descendants for treatment; or (D) other culturally appropriate treatment.

In the event that archaeological or historic resources are found during Project implementation, an approved archaeological consultant shall be contacted immediately. Additionally, all ground-disturbing activities shall be halted at the discovery site and within 100 feet of it until the discovery has been evaluated by the approved archaeological consultant and all appropriate agencies have been notified. If the discovery is recommended as eligible for listing in the California Register of Historic Resources, mitigation of the impacts may include archaeological data recovery and/or monitoring.

1000-13

## **PERSONNEL EDUCATION**

The Agency's Biological Monitor shall brief all project personnel on environmental concerns, including conducting all activities within the Project work limits, special status plant and wildlife species expected to be encountered within the Project area, protective measures that must be implemented to avoid harming plants and wildlife, proper protocol in the event wildlife enters or is injured or killed in the work area during contractor activities, and buffers in the event active bird nests are encountered. All project personnel shall participate in the environmental education program conducted by the Agency's Biological Monitor before they may work on site. Attendees shall sign in on the day they attend and wear an emblem documenting their attendance on their hard hat.

1000-14

## **ENVIRONMENTAL COORDINATION**

The Contractor shall coordinate and fully cooperate with the Agency and the Agency's Biological Monitor as follows:

- a. Provide a minimum of fifteen (15) working days' notice to the Engineer prior to mobilization to facilitate mandatory surveying of native species prior to the start of work. Temporary no-work buffer zones may be required if surveys determine the presence of nesting birds within or immediately adjacent to the work limits.
- b. The Agency's Biological Monitor will be present on site full-time to part-time throughout construction and will coordinate with the Agency Inspector and Contractor to ensure that work activities comply with Project permits, do not harm wildlife, and do not extend beyond permitted work boundaries.
- c. If wildlife occurs within the temporary work area, the Contractor shall immediately stop and redirect the work away from the immediate area and call the Biological Monitor so that they can capture and relocate the wildlife, if feasible, or perform other protective measures. Contractor shall not kill, harm, or harass wildlife.
- d. The Contractor shall not commence work near the species until the Biological Monitor completes the relocation effort. If wildlife cannot be relocated, work shall temporarily cease in that area until such time that the Biological Monitor allows work to resume.

1000-15

## **COMPLIANCE WITH REGULATORY PERMITS AND AGREEMENTS**

1000-15.1

### **Permits**

The Contractor shall work only within the temporary work area limits delineated on the project plans. Work includes equipment parking, temporary storage of any materials, vegetation trimming, earthwork, and other project related construction activities. Work outside these limits is prohibited and may result in violation of environmental regulations, such as Section 1600 et. seq. California Fish and Game Code, Section 401 and 404 of the Federal Clean Water Act, the Porter-Cologne Water Quality Control Act, the California Environmental Quality Act, the Federal and State Endangered Species Acts, and the Migratory Bird Treaty Act. Compliance with or enforcement of any of these regulations shall not be a basis for additional compensation to the Contractor.

Regulatory permits required for this project include U.S. Fish and Wildlife Service (Biological Opinion), Los Angeles Regional Water Quality Control Board (a. Section 401 Water Quality Certification and b. National Pollutant Discharge Elimination System (NPDES) Waste Discharge Requirements

for Construction Groundwater Dewatering), and U.S. Army Corps of Engineers Nationwide 37 Permit. The permits are attached hereto.

In addition to the specific permits listed above, the Contractor must adhere to the Best Management Practices (BMPs) and Water Diversion Guide, which are attached hereto and are a part of these specifications. Additionally, the Contractor is also bound by environmental regulations including, but not limited to, the California Environmental Quality Act (CEQA), the Federal and State Endangered Species Act, and the Federal Migratory Bird Treaty Act.

The Agency is not responsible for any additional work costs associated with the Contractor being barred from working due to nesting bird(s) or the presence of other sensitive biological resources in or near the work area including, but not limited to, demobilization, remobilization, protection of work completed, rework, slope stabilization, traffic diversions, changes in site conditions, and extended overhead.

1000-15.2 **Liability**

The Contractor shall indemnify and hold harmless the Agency from all damage to the Agency, including but not limited to penalties, legal fees, and other expenses, resulting from any violation of any permit set forth above if the damage is caused in whole or in part by any action or omission of the Contractor. The Contractor and its sureties shall be liable for the amount necessary to indemnify and hold harmless the Agency for all damage resulting from any such violation and that amount may be deducted from any amount due or becoming due to Contractor from the Agency.

1000-16 **HAUL AND ENCROACHMENT PERMITS**

The Contractor at Contractor's expense shall obtain all State, County, City, or local permits required to haul waste materials and equipment on public roadways.

1000-17 **GENERAL BEST MANAGEMENT PRACTICES**

The following general best management practices must be adhered to at all times during periods of active work, as follows:

No debris, soil, silt, sand, rubbish, construction waste, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into the project work area. When operations are completed, any

excess materials or debris shall be removed from the work area. No rubbish shall be deposited within the channel. Prior to removal from the site, all trash shall be stored outside the channel within designated trash receptacles.

The Contractor shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws.

Any equipment or vehicles driven and/or operated within or adjacent to the channel shall be checked and maintained daily to prevent leaks of materials that, if introduced into the water, could be deleterious to aquatic life.

When not in use during working hours, Contractor shall park vehicles and equipment on pavement, existing roads, previously disturbed areas, and within designated staging areas. Any and all equipment, vehicles, and heavy equipment shall be removed from the river at the end of each workday and stored in the secure staging and storage area(s).

All wheeled or tracked equipment shall be removed from the channel at the end of each workday and stored in a secure storage area.

Stationary equipment such as motors, pumps, and generators located adjacent to the channel shall be positioned over drip pans.

No equipment maintenance shall be done within or near the project work area where petroleum products or other pollutants from the equipment may enter the channel via rainfall or runoff. Vehicle and equipment maintenance and refueling shall only occur in a designated storage and staging area. Contractor shall not refuel or perform maintenance on any vehicles or equipment within 50 feet of any watercourse or riparian area.

Emergency spill containment kits shall be maintained on site at all times, in sufficient quantity, and shall be stored in easily visible and accessible locations.

The clean-up of all spills shall begin immediately. The Agency shall be notified immediately by the Contractor of any spills and shall be consulted regarding clean-up procedures.

Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter the channel or placed in locations that may be subjected to high storm flows.

Rock, gravel, and/or other materials shall not be imported to, taken from or moved within the channel, except as otherwise addressed in these specifications.

The Contractor shall provide advance notice (e.g., 5 working days) of the start of construction for the Project to all those residences adjacent to the work area. The announcement (e.g., color doorhanger in English and Spanish) shall state specifically where and when construction will occur and provide Contractor contact information for public questions and comments. The Contractor shall serve as the primary contact person with the Agency's Inspector or Engineer as the secondary contact in the event that noise levels during construction become disruptive to local residents. A sign shall be posted at various sites in and adjacent to the work area with the Contractor's contact phone number and include general contact information for public questions or comments.

No firearms are allowed on the Project site, unless otherwise approved for security personnel.

No domesticated animals of any kind are permissible in any portion of the Project area.

Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game code prohibit the take of all birds and their active nests including raptors and other migratory non-game birds (as listed under the Federal MBTA). The Contract does not allow the Contractor, any employee, or agent to destroy or disturb any active bird nest (Section 3503 Fish and Game Code), or any active raptor nest (Section 3503.5) at any time of the year. Contractor shall coordinate with the Engineer and Biological Monitor to ensure adherence to these requirements.

During work, if nesting birds protected by the MBTA are found, a buffer zone shall be marked around the nest and project activities within this buffer shall be prohibited. Buffer zones will be determined on species and permits, as directed by the Biological Monitor.

Any Contractor employee, subcontractor, and/or guest that inadvertently kills or injures an animal, or finds one dead, injured, or entrapped, shall immediately report the incident to the on-site Agency Inspector and/or Agency Biological Monitor. Notification must include the date, time, location, and circumstances of the incident, as well as photographs. The Agency will report the incident to CDFW, and USFWS.

Prior to installation of erosion and sediment control, such as temporary fencing, the type and installation method shall be approved by the Engineer and Biological Monitor such that the fencing avoids entrapment by wildlife.

Water diversion and control of water in and to Coyote Creek, and further

downstream to the Ventura River, shall be conducted in the presence of the Agency's Biological Monitor and in compliance with all environmental permit conditions, the pertinent Special Provisions, and the "Water Diversion Guide" attached hereto, and made a part of these Specifications.

Runoff or discharges from within the work limits shall not negatively affect the water quality of the Ventura River including, but not limited to, pH, turbidity, temperature, and dissolved oxygen.

Contractor shall not work during rain events. Within 24 hours prior to forecasted rain events of at least 50-percent chance of 0.10 inch of precipitation, Contractor shall begin implementation of BMPs. Work shall cease and all BMPs shall be in place within four (4) hours of the onset of precipitation.

National Weather Service  
Los Angeles/Oxnard Weather Forecast Office  
520 North Elevar Street  
Oxnard, CA 93030  
(805) 988-6610

#### 1000-18 **ACCESS TO THE PROJECT SITE**

Contractor's access to the project site shall be from 575 Casitas Vista Road as shown on the plans. Before completion of the project, the Contractor, at its own expense, shall restore the access routes, including County roads, driveway entrances and District access roads, used by the Contractor, to conditions equal or better than that, which existed prior to use by the Contractor and to the satisfaction of the engineer.

#### 1000-19 **TEMPORARY WORK AREA LIMITS**

Prior to ground disturbance of any kind, the temporary work area limits shown on the plans shall be clearly staked with visible flagging at distances no greater than 100' on center, which shall remain for the duration of the Project. The work area limits shall be verified and approved by the Engineer or Inspector before the Contractor commences field activities.

Upon completion of the project, the Contractor shall restore all existing surface and subsurface facilities within the temporary work areas to their original condition and to the Engineer's satisfaction. Restoring shall include but not be limited to fencing, asphalt concrete, pavement markings, curb and gutter, cross gutter, concrete sidewalk, irrigation system, lights, and utilities as indicated on the plans.

1000-20      **PRIVATE PROPERTY**

The Contractor shall protect all private properties and improvements along the west and east side of the project. All construction equipment shall operate within the temporary work area limits as shown on the plans. The Contractor shall exercise care at the ingress and egress of the project site.

1000-21      **PAYMENT**

No separate payment will be made for compliance with all provisions of 1000. All costs involved shall be absorbed in the Contractor's total bid price for the project.

## **SECTION 1001**

### **CLEARING AND GRUBBING**

#### **Bid Item No. 2**

1001-1

#### **SCOPE**

This item shall consist of Clearing and Grubbing the project work area and disposal of materials removed in accordance with the requirements of 300-1. Items to be removed shall include, but not be limited to vegetation (including native and non-native species), trees, logs, tree branches, shrubs, herbaceous weeds, trash, and all other artificial objectionable materials within the limits of construction as shown in the Plans. Vegetation shall be removed only where necessary to complete project work. Vegetation may be trimmed to allow for equipment access.

Clearing shall occur in a 15' radius of channel excavation and within the designated work area, where necessary to preform project work, i.e. demolition, grading, excavation, etc. If vegetation is within the working limit but not in the way of construction activities, it can be left in place. Any non-native giant reed (*Arundo donax*) will be cleared from the Project area. Herbaceous weeds shall be removed during vegetation clearing. Disposal methods are discussed below.

Clearing and Grubbing shall commence only after all temporary construction limits have been clearly delineated and marked. Vegetation and debris shall not be stockpiled in the riverbed or on or along the banks. No vegetation shall be removed along the steep slope located at the back of the property (northeast of the main home). Vegetation along Casitas Vista Road that is not obstructive shall be left in place.

The Contractor shall notify the Agency prior to work activities so the Agency's Biological Monitor is given notice of five (5) days prior to initiating Clearing and Grubbing work. The Biological Monitor will perform surveys, such as nesting bird surveys, prior to any Clearing and Grubbing activities.

1001-2

#### **DISPOSAL SITES**

All material designated for removal and disposal shall be disposed of in the following order of priority: 1) at a County-recognized recycling/buyback facility, 2) lawfully at a site in accordance with local ordinances.

For giant reed (*Arundo donax*), the Contractor shall haul away to a legal off-site disposal location approved by the Engineer, or chip the biomass as approved by the Engineer. Seed-bearing non-native vegetation (such as castor bean (*Ricinus communis*)), or native vegetation (such as poison oak (*Toxicodendron diversilobum*)), or vegetation identified by the Agency's Biological Monitor shall not be chipped and disposed of as a destruction load.

1001-3

### **MEASUREMENT AND PAYMENT**

Payment for Clearing and Grubbing will be made on a lump sum basis at the contract price bid for Bid Item No. 2 and in accordance with 300-1.4. Such payment shall be considered full compensation for removal (outside the project site) and proper disposal of all the resulting materials, furnishing all labor, materials, tools, equipment and incidental items required to complete the work.

## **SECTION 1002**

### **TRAFFIC CONTROL**

#### **Bid Item No. 3**

##### **1002-1 SCOPE**

This item shall consist of Traffic Control and Detour for the construction activities of the project. All traffic control detour and appurtenant work shall be in accordance with 5-9 and current requirements set forth in the California Manual on Uniform Traffic Control Devices (CMUTCD), the Department of Transportation, State of California (Caltrans) Standard Plans and Standard Specifications, latest editions, the Standard Specifications (GREENBOOK) 2021 Edition, the Plans, and these Special Provisions.

##### **1002-2 TRAFFIC CONTROL PERMIT**

The Contractor shall submit a Traffic Control Plan (TCP) to the Agency for review and approval. The TCP shall be prepared by a Traffic or Civil Engineer registered in the state of California and in accordance with 5-9.2. After Agency's approval, the Contractor shall obtain Traffic Control Permits from the Ventura County Transportation Department for their right of ways on roads to be used by the Contractor and his Sub-Contractors, impacting traffic and staging of trucks to be loaded and unloaded with sediment. The Contractor shall contact the VC Transportation Department to obtain information on permit requirements, permit review times, and permit costs.

The Contractor's equipment and personal vehicles of the Contractor's employees shall not be parked on the traveled way or shoulders at any time, except as provided in the approved Traffic Control and Detour Plan.

All construction work and traffic control shall be scheduled and constructed to provide for minimum inconvenience and maximum safety to the public vehicular and pedestrian traffic.

Contractor shall provide flagmen and other personnel as required mainly at the ingress and egress locations of the project site to comply with permits and minimize inconvenience to the public.

##### **1002-3 CONSTRUCTION MATERIALS**

Traffic control work shall include all labor, materials, tools, equipment, transportation and incidentals necessary to maintain and control all

vehicular and pedestrian traffic at the project access locations and through the construction site.

All such work shall conform to the applicable provisions of the Standard Specifications for Public Works Construction (GREENBOOK) 2021 Edition, the project Plans and these Special Provisions.

All work relative to maintaining and controlling traffic shall additionally conform to the applicable sections, tables, and figures in the latest edition of the California Manual of Uniform Control Devices (CMUTCD) as issued by the Federal Highway Administration, the State of California Department of Transportation (Caltrans) Standard Plans and Standard Specifications latest edition, and the Work Area Traffic Control Handbook (W.A.T.C.H) Manual, latest edition.

1002-4

#### **CONSTRUCTION WORK SIGNING**

The Contractor shall furnish and install all advance warning signs and other traffic control devices. Only those signs, lights, and devices shown in the current California Department of Transportation Traffic Manual are authorized for use during construction.

Whenever construction operations create a condition hazardous to the public, the Contractor shall furnish, erect and maintain, at their expense, such fences, barricades, lights, signs, delineators, flagmen, and other devices as deemed necessary by the Engineer to prevent accidents or damage or injury to the public in accordance with said Manual and the Standard Specifications.

1002-5

#### **MEASUREMENT AND PAYMENT**

Measurement and payment for Traffic Control and Detour will be paid on a lump sum basis and will be made at the contract price bid for Bid Item No. 3. Such payment shall be considered full compensation for furnishing all labor, materials, tools, equipment, and all incidentals required for Traffic Control and Detour for the duration of the work.

## **SECTION 1003**

### **ABATEMENT AND DISPOSAL OF SITE'S HAZARDOUS MATERIALS**

#### **Bid Item No. 4**

##### **1003-1      SCOPE**

This item shall consist of abatement, removal, and disposal of all hazardous materials from the project site. All work shall be performed in accordance with the Standard Specifications, the Plans, and these Special Provisions.

##### **1003-2      CONSTRUCTION METHODS**

The Contractor shall abate, remove, and dispose of asbestos, hazardous, and lead containing materials that the existing structures or features onsite may contain. Abatement may include, but it is not limited to the removal and disposal of the roof mastic, joint compounds, asbestos, any structures containing lead paint, flammable materials, and other hazardous materials as applicable that may be within the project site.

The removed materials are considered hazardous and shall be disposed of before any other work begins. Disposal of materials shall comply with 1000-7.

An asbestos and lead survey report has been performed by S&J environmental testing. The report lists all found material containing asbestos for the contractor's information. The report is included in the specs book referred as exhibit "A".

##### **1003-3      MEASUREMENT AND PAYMENT**

Payment for abatement and disposal of asbestos, lead containing materials, flammable materials, and other hazardous materials as applicable will be made on a lump sum basis as listed in Bid Items No. 4. Such payment shall constitute full compensation for furnishing all labor, material, tools, equipment, disposal and disposal fees, and other necessary and incidental items required to complete the work.

## **SECTION 1004**

### **DEMOLITION AND REMOVAL OF STRUCTURES AND DEBRIS**

#### **Bid Item No. 5**

##### **1004-1 SCOPE**

This item shall consist of but not limited to the demolition, removal, and disposal of existing structures, foundations and footings, swimming pool, septic tank, retaining walls, concrete slabs on grade and driveways, railing, bridge and abutments, headwalls, all patio features, all site improvements, and debris as shown on the Plans. All work shall be performed in accordance with the Standard Specifications, the Plans, and these Special Provisions.

The Contractor shall notify the Agency prior to work activities so the Agency's Biological Monitor is given notice of five (5) days prior to initiating work so they can survey the work area.

##### **1004-2 CONSTRUCTION METHODS**

###### **1004-2.1 Examination**

Before demolition, the Contractor shall:

- a. Review 1004-2.2, Existing Utilities.
- b. Review the Plans, Special Provisions, and all Contract documents in order to inspect the project site. The Agency does not guarantee that existing conditions are the same as those indicated in the Construction Plans.
- c. Verify that hazardous materials have been remediated before proceeding with the demolition operations of existing structures.

###### **1004-2.2 Existing Utilities**

Before demolition, the Contractor shall:

- a. Coordinate work with utility companies; notify before starting work and comply with their requirements; obtain required permits.
- b. Verify that utilities have been disconnected and capped before starting demolition operations.
- c. Protect existing utilities to remain from damage.

- d. Not disrupt public utilities without a permit from the authority having jurisdiction.
- e. Not close, shut off, or disrupt existing life safety systems that are in use without at least 7 days prior written notification to County.
- f. Not close, shut off, or disrupt existing utility branches or take-offs that are in use without at least 3 days prior written notification to County.
- g. Locate and mark utilities to remain; mark using highly visible tags or flags, with identification of utility type; protect from damage due to subsequent construction, using substantial barricades if necessary.
- h. Remove exposed piping,
- i. Cut off pipe or conduit a minimum of 24 inches below grade. Cap, valve, or plug and seal the remaining portion of pipe or conduit after bypassing according to requirements of authorities having jurisdiction.

#### 1004-2.3 **Debris and Waste Removal**

Before demolition, the Contractor shall:

- a. Remove all debris, junk, trash, and any other items abandoned by the previous owner within the project site.
- b. Leave site in clean condition, ready for subsequent work.
- c. Clean up spillage and wind-blown debris from public and private lands.

#### 1004-2.4 **Demolition, General**

- a. The Contractor shall demolish indicated buildings, structures, and site improvements completely. The Contractor shall use methods required to complete the Work within limitations of governing regulations and as follows:
  - i. Shall not use cutting torches until the work area is cleared of flammable materials. Maintain portable fire-suppression devices during flame-cutting operations.
  - ii. Maintain fire watch during and for at least 4 hours after flame cutting operations.
  - iii. Maintain adequate ventilation when using cutting torches.
  - iv. Locate building demolition equipment and remove debris and materials so as not to impose excessive loads on supporting walls, floors, or framing.

- b. During demolition, the Contractor shall perform surveys to detect hazards that may result from building demolition activities.
- c. Explosives: Use of explosives is not permitted.

#### 1004-2.5 **Demolition by Mechanical Means**

- a. Proceed with demolition of structural framing members systematically, from higher to lower level. Complete building demolition operations above each floor or tier before disturbing supporting members on the next lower level.
- b. Remove debris from elevated portions of the building by chute, hoist, or other device that will convey debris to grade level in a controlled descent.
  - i. Remove structural framing members and lower them to the ground method suitable to minimize ground impact and dust generation.
- c. Below-Grade Construction: Demolish foundation, footings, and foundation walls and other below-grade construction.
  - i. Remove below-grade construction, including basements, septic tanks and appurtenances, foundation walls, and footings, completely.
- d. Existing Utilities: Abandon existing utilities and below-grade utility structures.
- e. Existing Utilities: Demolish existing utilities and below-grade utility structures that are within 5 feet outside footprint indicated for new construction. Abandon utilities outside this area.
  - i. Fill abandoned utility structures with satisfactory soil materials as approved by the Engineer.
  - ii. Piping: Disconnect piping at unions, flanges, valves, or fittings.
  - iii. Wiring Ducts: Disassemble into unit lengths and remove plug-in and disconnecting devices.

#### 1004-2.6 **Site Restoration**

- a. Below-Grade Areas: Rough grade below-grade areas ready for further excavation or new construction.
- b. Site Grading: Uniformly rough grade area of demolished construction to a smooth surface, free from irregular surface changes. Provide a smooth transition between adjacent existing grades and new grades.
- c. The site shall be graded in order to provide a positive drainage and as

directed by the Engineer.

1004-2.7      **Disposal of Demolished Materials**

- a. The Contractor shall remove demolition waste materials from Project site and legally dispose of them in an EPA approved landfill acceptable to authorities having jurisdiction. See Section 017419 "Construction Waste Management and Disposal" for recycling and disposal of demolition waste.
  - i. The Contractor shall not allow demolished materials to accumulate on-site.
  - ii. The Contractor shall remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
  - iii. The Contractor shall not burn demolished materials.

1004-3      **MEASUREMENT AND PAYMENT**

Payment for demolition and removal of the structures and other materials will be made on a lump sum basis as listed in Bid Items No. 5. Such payment shall constitute full compensation for furnishing all labor, material, tools, equipment, and other necessary and incidental items required to complete the work.

## **SECTION 1005**

### **EXCAVATION SAFETY**

#### **Bid Item No. 6**

##### **1005-1 SCOPE**

This item shall consist of performing all work required to meet the Excavation Safety requirements specified in 5-7.2.

In accordance with generally accepted practices, the Contractor shall be solely and completely responsible for the conditions of the job site, including safety of all personnel and property during performance of the work.

##### **1005-2 MEASUREMENT AND PAYMENT**

The measurement and payment for Excavation Safety, including but not limited to shoring and workers safety, will be computed by the Engineer based on his estimate of the percentage completion of this item of work. In general, this will be proportional to the percentage completion of the major items of work to which excavation safety is incidental.

Progress Payments for Excavation Safety will be made on a lump sum basis at the contract price bid for Bid Item No. 6. Such payment shall be considered full compensation for furnishing all labor, materials, equipment, tools, transportation, and incidentals, and for doing all the work involved and necessary to accomplish trenching and shoring, worker safety, property and improvements protection, confined spaces, and other appurtenant work complete in place, as specified in these Special Provisions, and as required for shoring and worker safety, and as directed by the Engineer.



# EXHIBITS



# BMP's ENVIRONMENTAL BEST MANAGEMENT PRACTICES

## **COYOTE CREEK PILOT CHANNEL PROJECT ENVIRONMENTAL BEST MANAGEMENT PRACTICES**

### **ENVIRONMENTAL BEST MANAGEMENT PRACTICES**

#### **BMP 1: Avoid Channel Earthwork During the Rainy Season/Events**

- Avoid earthwork in earthen and soft bottom channels from December 1 to April 1 unless water is absent.
- If work is considered critical, work in flowing water is acceptable, provided flow is diverted according to the Water Diversion Guide and sensitive aquatic species not present.
- No earthwork shall be conducted during rain events, or if 0.25 inches or more of rain is forecast within 12 hours of scheduled work.

#### **BMP 2: Prevent Discharge of Silt-Laden Water During Channel Excavation**

- Prevent the discharge of silt-laden water or pollutants downstream when removing sediments, vegetation, and trash from channels.
- Install BMPs: silt barriers, sand bags, straw bales, as appropriate per Board Order No. 10-0108; NPDES Permit No. CAS004002, July 8, 2010.
- Follow the Water Diversion Guide if a flow diversion is installed.

#### **BMP 3: Location of Temporary Stockpiles**

- Temporary stockpiles in the channel bottom shall be limited to one working day and not overnight.
- Temporary stockpiles may be placed in channel bottoms if they are placed in such a manner that they would not be exposed to flowing water.
- Permanent stockpiles shall be located landward of the 100-year floodplain to the maximum extent feasible.

#### **BMP 4: Survey for Habitat (nesting)**

- A biological survey for nesting birds required prior to work from February 1 to September 15 if in or adjacent to suitable habitat.
- Nesting habitat defined as cattail patches, short and tall trees, and shrubby areas. Open gravel, bridges, culverts, and fence posts may also support nests.
- If active bird nests are identified, work within 300 feet (500 feet for raptors) must be postponed until after September 15, unless the biologist determines the nest becomes inactive or a reduced buffer is approved by regulatory agencies.

#### **BMP 5: Aquatic Pesticide Application**

- Follow the most up-to-date Best Management Practices and the monitoring and reporting requirements in the District's NPDES Stormwater Quality Management Plan.
- Comply with the Ventura County Application Protocol for Pesticides, Fertilizers, and Herbicides, including working under the direction of a Qualified Applicator, using materials

approved for aquatic use, following the manufacturer's application directions, avoiding application prior to forecasted storm events and ensuring wind conditions are suitable to avoid spray drift.

**BMP 6: Water Diversion Guide**

- Follow water diversion methods and procedures established in the District's Water Diversion Guide.
- Baseline water quality monitoring is required PRIOR to installation of any water diversion, daily for the first 5 days the diversion is in place, and weekly thereafter. Contact District environmental staff to contract for/conduct monitoring.
- Fish mortality associated with stream flow diversion or dewatering shall be reported by environmental staff to Regulatory Agencies within 24 hours of discovery.

**BMP 7: Avoid Spills and Leaks**

- Keep all equipment in good working condition and free of leaks.
- No equipment maintenance or refueling in a channel or basin bottom.
- Place drip pans under all stationary equipment such as motors, pumps, generators, compressors, and welders.
- Spill containment materials must be on site or readily available for any equipment maintenance or refueling that occurs adjacent to a watercourse.
- Train all maintenance crews in spill containment and response.
- Immediately clean up all spills. Submit report to the Office of Spill Prevention and Response.

**BMP 8: Biological Surveys in Appropriate Habitat Prior to Vegetation Maintenance**

- Biologists conducting surveys for California red-legged frog and least Bell's vireo shall be approved by the U.S. Fish & Wildlife Service in writing.
- Prior to sediment removal, vegetation removal, or additional work activities an approved biologist shall survey for threatened, endangered, or sensitive species if suitable habitat occurs in or near work area. If such species are within or in close proximity to the work areas, the District shall reschedule the work when the species are not present.
- If it is necessary to conduct the work while sensitive species are present or in proximity to the work areas, a species protection plan shall be developed, approved by USFWS/NMFS/CDFW, then implemented.
- An approved biologist shall periodically monitor the work area during maintenance activities for wildlife and relocate species as needed to minimize mortality.
- Exotic fish, invertebrate, amphibian and reptile species shall be captured when feasible, dispatched and properly disposed by a qualified biologist.

**BMP 9: Invasive Plant Removal Protocols**

- Remove invasive plant species in a manner that prevents propagation.
- Do not stockpile invasive vegetation where materials would wash downstream or allowed to propagate.

**BMP 10: Air Quality (Dust Control)** The following measures shall be incorporated into maintenance activities to minimize fugitive dust emissions during grading, excavation, and construction activities.

- Minimize the areas disturbed at any one time by clearing, grading, earth moving, or excavation operations to prevent excessive dust.
- Water grading/excavation areas prior to and during work.
- Cover all truck loads; required by California Vehicle Code §23114.
- Prevent fugitive dust (via treatment) on all graded and excavated material, exposed soil areas, stockpiles, including unpaved parking and staging areas, and other active portions of the construction site.
- District staff shall weekly monitor contractor graded and/or excavated inactive areas of the construction site for dust stabilization.
- No grading/earth work during periods of high winds (i.e., wind speed sufficient to cause fugitive dust to impact adjacent properties) to prevent excessive fugitive dust.
- Use rumble strips or track out devices where vehicles enter and exit unpaved roads onto paved road.
- All on site construction roads that have a daily traffic volume of more than 50 daily trips shall be stabilized as to minimize transport of earthen material from the site.
- There shall be at least one qualified District staff on site each work day to monitor the provisions of the Fugitive Dust Mitigation Plan and any other applicable fugitive dust rules, ordinances, or conditions.
- Personnel involved in grading operations shall be advised to wear respiratory protection in accordance with California Division of Occupational Safety and Health Regulations.
- All project construction operations shall be conducted in compliance with all applicable APCD Rules and Regulations with emphasis on Rule 50 (Opacity) and Rule 51 (Nuisance).

**BMP 11: Construction Noise**

- Noise-generating construction activities shall be restricted to the daytime (i.e., 7:00 AM to 7:00 PM).
- Minimize sustained construction noise adjacent to sensitive wildlife during the nesting season, as directed by the biological monitor.
- When construction noise is anticipated to affect sensitive wildlife, environmental staff shall consult with regulatory agencies regarding additional mitigation measures.

**BMP 12: Native Tree Removal**

- Native trees in temporary impact areas not subject to excavation shall be cut to ground level to facilitate regrowth, and not removed by heavy equipment.

**BMP 13: Environmental Training and Monitoring**

- Prior to any sediment removal, vegetation removal, or additional work activities, a qualified biologist familiar with the work site shall provide training to the work crew regarding potential species present, habitats to avoid, measures to implement to minimize impacts, and events/situations that require work to be stopped and the biologist to be contacted.
- All contractor work shall be subject to monitoring at least periodically by qualified biologists to observe and report to the District Inspector compliance or non-compliance with regulatory permit conditions, project plans and specifications, and best management practices. Corrective actions will be identified and enforced by the Inspector. Full time biological monitoring will occur during vegetation removal, installation and removal of water diversion and control devices, and when work may affect listed and/or nesting species.
- Only the qualified biologist will have the capacity to handle wildlife and only under certain conditions. If common aquatic or terrestrial species are identified in the project area during these work activities, a qualified biologist will capture and relocate the organism to a suitable portion of nearby habitat, outside of the work area. If any special status species are observed, regulatory agencies will be contacted, and work will be adjusted to avoid take of the species.

**BMP 14: Work in California Red-legged Frog Habitat**

- Any steep-walled excavations that may trap California red-legged frogs that will be left overnight in suitable habitat (Ventura River, San Antonio Creek) shall be covered.
- Approved biologists handling California red-legged frogs shall not use gloves, unless they are well-rinsed and composed of vinyl.
- Approved biologists working in California red-legged frog habitat shall follow the Declining Amphibian Task Force Fieldwork Code of Practice.

**BMP 15: New Zealand Mudsnail and other Non-native Species Control Protocols**

The protocols have been developed to minimize the spread of the invasive New Zealand mudsnail and other non-native species, including plant seed. These protocols address the three general modes for potential spread of New Zealand mudsnails, hand tools & boots, mobile equipment and vehicles, and reusable instream materials.

- Wash mobile equipment used in surface water that may have incidental soil attached (e.g., dozers, excavators, discing equipment, wheeled loaders and motor graders) using Protocol 2B (on-site or off-site hot pressure wash).
- Wash equipment that infrequently crosses the wetted channel and does not have incidental soil attached (e.g., herbicide trailers, chipper, water pumps [hand carried

and trailer-mounted], mowers and motor vehicles) using Protocol 3 (on-site or off-site hot or cold pressure wash).

### **Protocol 1 - Hand Tools, Boots and Wetted Power Tools**

This control protocol involves cleaning any hand tools, boots, and wetted portions of power tools (weed whipper, drill, concrete vibrator, etc.) that come in contact with potentially infected surface water prior to leaving the work site each day OR leaving these materials at the site until the work is complete. Hand tools, boots, and wetted portions of power tools must be cleaned before leaving the site using the following procedure:

1. Remove any accumulated mud/soil from the article to be cleaned;
2. Fill a portable plastic tub (child's swimming pool, or equivalent) to a depth allowing complete submersion of the boots or tools with a 4 percent solution (5 fluid ounces per gallon) of a commercial disinfectant (GS High Dilution Disinfectant 256, Spartan Chemical Company);
3. Scrub all surfaces with a brush;
4. Let soak in the disinfectant for approximately 10 minutes;
5. Rinse with **potable** water; and
6. Dispose of the used disinfectant solution in a sewer or upland area where it cannot enter surface waters.

### **Protocol 2 – Instream Mobile Equipment (non-infested reaches)**

This Protocol applies to equipment that is used in the wetted channel and likely to have incidental soil attached, such as dozers, excavators, discing equipment, wheeled loaders and motor graders.

1. The equipment must be washed on-site using a portable hot pressure washer OR taken to the nearest O & M washing facility (Saticoy or Moorpark) for a hot pressure wash.
2. Care must be taken to pressure wash all surfaces with hot water that typically come in contact with surface water and/or wet sediments, such as wheels, tires, discs, dozer tracks, excavator and loader buckets, dozer and grader blades, undercarriage, hydraulic cylinders and hoses, and fenders.

### **Protocol 3 – Other Mobile Equipment and Vehicles**

This Protocol applies to equipment that infrequently crosses the wetted channel and does not have incidental soil attached, such as herbicide trailers, chipper, water pumps (hand carried and trailer-mounted), mowers and motor vehicles.

1. The wheels, tires and undercarriage of this equipment must be pressure washed, either on-site or the nearest O & M washing facility (Saticoy or Moorpark).
2. If washed on-site, wash water must be contained and not allowed to run-off into a storm drain or drainage feature.

**Protocol 4 - Reusable Instream Materials**

Materials that may be transported between work sites may include sand bags, K-rail, diversion pipe, water hoses and concrete forms (wood). Sand bags immersed in surface waters cannot be fully cleaned, and must be emptied of sand (on-site or the District's maintenance yard) and the bag deposited in a proper trash receptacle.

1. Wash hard surfaced materials on-site using a portable hot pressure washer OR take to the nearest O & M washing facility (Saticoy or Moorpark) for a hot pressure wash.
2. Care must be taken to remove all attached soil or sediment and fully contact all surfaces.

**ENDANGERED SPECIES ADDITIONAL CONDITIONS**

**CALIFORNIA RED-LEGGED FROG:** USFWS Biological Opinion identified the following impact minimization measures. “Work” includes herbicide, earthwork, and other maintenance, except access road and fence maintenance.

MEASURE #	ACTION
CRLF-1	Approved biologist conducts daily pre-work surveys. Relocate all life stages potentially affected by work.
CRLF-2	Relocation site will be shortest distance to suitable habitat not affected by work.
CRLF-3	Biologist will maintain detailed descriptions of relocated individuals to determine if same individuals are recaptured.
CRLF-4	Biologist will train all O&M personnel and contractors regarding species and work type/boundaries.
CRLF-5	Biologist required to remain on site until all frogs have been relocated, worker education is complete, and vegetation removal has been completed.
CRLF-6	Biologist to permanently remove non-native aquatic species, when feasible.

**LEAST BELL’S VIREO/SW WILLOW FLYCATCHER:** USFWS Biological Opinion identified the following impact minimization measures. “Work” includes earthwork, and other maintenance, except access road and fence maintenance.

MEASURE #	ACTION
LBV-1	If feasible, conduct work between Sept 16 to Feb 28 in facilities with LBV suitable habitat within 500 feet of work area.
LBV -2	March 1 to September 15: approved biologist conduct surveys for LBV/SWFL

	prior to work with habitat within 500 feet. (see list of facilities)
LBV -3	If LBV/SWFL nest detected, minimum 500 foot buffer between work and nest unless otherwise agreed to by USFWS. Biologist must monitor nest during work.
LBV -4	Mitigation/restoration projects in suitable LBV/SWFL habitat: avoid removal of willow and cottonwood trees >8 inch dbh..

## **ENVIRONMENTAL AVOIDANCE AND MINIMIZATION MEASURES**

VCPWA-WP will follow the Best Management Practices described above, and the following Avoidance and Minimization Measures to prevent impact to sensitive resources, as feasible.

### **AMM 1 – General Best Management Practices**

The following General BMPs would be implemented by project personnel:

- Prior to mobilization, the contractor would clearly delineate the project limits and prohibit any project-related work outside those boundaries.
- Project-related vehicles would observe a 5-mile-per-hour speed limit within the unpaved limits of the project.
- All food-related trash items such as wrappers, cans, bottles, and food scraps generated during the proposed project would be disposed of in closed containers only and removed daily from the project site.
- No deliberate feeding of wildlife would be allowed.
- No pets would be allowed on the project site.
- No firearms would be allowed on the project site.
- If vehicle or equipment maintenance is necessary, it would be performed in the designated staging areas.
- Heavy equipment would be operated in accordance with standard BMPs. Equipment used on-site would be properly maintained to avoid leaks of oil, fuel, or residues. Provisions would be in place to remediate any accidental spills.

### **AMM 2 –Protection Against Spread of Non-Native Plants**

- Prior to entering the project site, workers would inspect their clothing, including shoes, all vehicles, and equipment for invasive plant seeds or plant parts. Excavated soil containing non-native plants would be stored in a previously disturbed area or staging area at least 50 feet from potential jurisdictional features. Any soil contaminated by non-native species will be removed and hauled offsite.

### **AMM 3 – Staging Equipment and Materials Storage.**

- Areas of temporary disturbance would be minimized to the extent practicable. To the

extent practicable, staging and laydown areas would be limited to unvegetated and previously disturbed sites consisting of ruderal vegetation, ornamental landscaping, and outside of the dripline of protected trees.

- Materials would be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage on the ground or into a watercourse. Material storage would be at least 100 feet from flowing water that could come in contact with Coyote Creek. Any material/spoils from project activities would be located and stored 100 feet from potential jurisdictional areas as practicable. Project materials and spoils will be protected from stormwater run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate.

### **REGULATORY AGENCY CONTACT LIST**

For inquiries regarding these BMPs or other questions, please contact Pam Lindsey before contacting regulatory personnel.

**Pam Lindsey, Watershed Ecologist 805-654-2036**

**Jill Jennings, Environmental Planner 805-645-1383**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
USACE	Antal Szijj	805-585-2147	Antal.J.Szijj@usace.army.mil
USFWS	Chris Dellith	805-667-3308	Chris_Dellith@fws.gov
NMFS	Brittany Struck	562-432-3905	Brittany.Struck@noaa.gov
CDFW	Angela Castanon	626-513-6308	Angela.Castanon@wildlife.ca.gov
LARWQCB	Céline Gallon		Celine.Gallon@waterboards.ca.gov

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# WATER DIVERSION GUIDE

# **WATER DIVERSION GUIDE**

**FOR THE**

**VENTURA COUNTY  
MAINTENANCE PROGRAM EIR**

**VENTURA, CALIFORNIA**

*Prepared for:*

**Ventura County Watershed Protection District**

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December 2007

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## **1.0 INTRODUCTION**

### **1.1 BACKGROUND**

The Ventura County Watershed Protection District's (District) ongoing maintenance program focuses on the proper operation and function of the District's flood control facilities. Routine maintenance and repair activities preserve the engineered flow conveyance and retention capacities of the District's flood control facilities and prevent/remove the accumulation of obstructing vegetation and sediments that could increase existing flood or erosion hazards.

This Water Diversion Guide was developed in conjunction with the 2008 Maintenance Program Environmental Impact Report (Program EIR) to address potential impacts to water quality and aquatic habitat during routine maintenance and repair activities. This guidance provides detailed Best Management Practices (BMPs) for the District and its contractors to use during water diversion activities to reduce environmental impacts to hydrology, water quality, and aquatic habitat.

### **1.2 PURPOSE**

During routine maintenance and repair operations, flowing or ponded water may be present at a flood control facility. Water flowing through work areas can potentially impact downstream water quality through the discharge of sediment, debris, construction materials and other pollutants. Construction activity may also impact water quality or native aquatic life by altering flow channels and hydrology, mechanically damaging aquatic habitat or contributing to siltation and turbidity.

Temporary water diversion is required during a routine maintenance or repair activity when work in flowing or ponded water has the potential to negatively impact water quality or native aquatic life. A water diversion facility must be constructed, operated, maintained, and removed to minimize impacts. BMPs implemented as part of the water diversion reduces water quality impacts by minimizing the discharge of sediments and other pollutants from the work area. BMPs for the protection, removal, and relocation of native aquatic life during water diversion reduce impacts to aquatic life. Water quality monitoring is usually required during the operation and removal of a water diversion. The results of water quality monitoring can be used to assess the performance of BMPs and address any potential impacts to water quality from the water diversion.

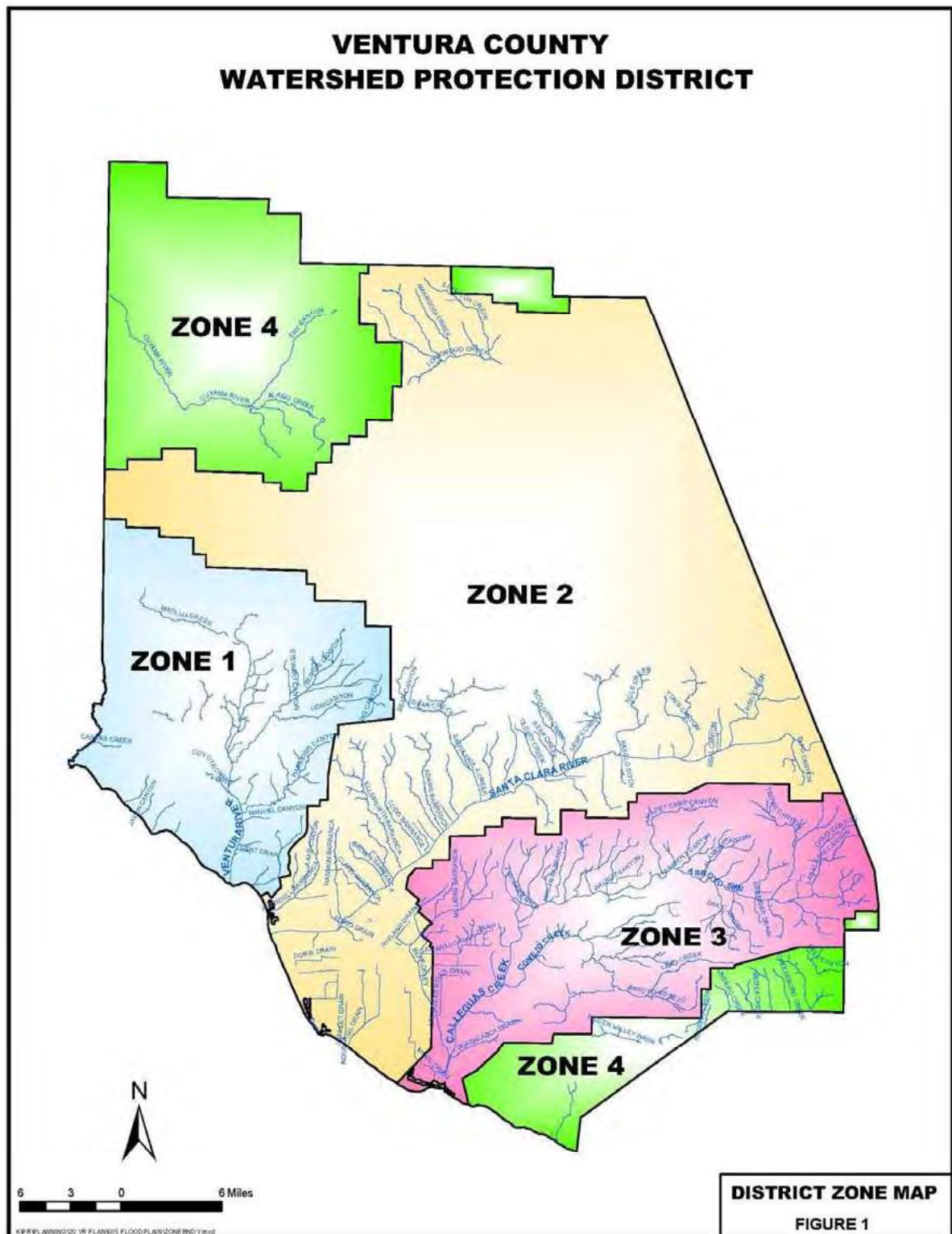
### **1.3 DISTRICT ZONES**

The District operates and maintains projects that have been either constructed by the District or constructed by others and transferred to the District. The District has divided Ventura County into four management zones (Table 1-1 and Figure 1).

**TABLE 1-1  
SUMMARY OF DISTRICT ZONES**

<b>Zone No.</b>	<b>Watershed</b>	<b>Major Drainages</b>	<b>Cities and Communities</b>
1	Ventura River Watershed	Ventura River, San Antonio Creek, tributaries in the Ojai Valley	Ojai, Ventura, Oak View, Casitas Springs, Live Oak Acres, Meiners Oaks
2	Santa Clara River Watershed and Oxnard Plain	Santa Clara River and its tributaries, various Oxnard Plain drains	Piru, Fillmore, Santa Paula, Ventura, El Rio, Saticoy, Oxnard, Port Hueneme, Nyeland Acres
3	Calleguas Creek Watershed	Arroyo Conejo, Arroyo Simi, Arroyo Santa Rosa Creek, Conejo Creek, Arroyo Las Posas Calleguas Creek, Revolun Slough	Simi Valley, Moorpark, Camarillo, Thousand Oaks, Newbury Park, Somis
4	Potrero Creek Watershed, Upper Cuyama River Watershed	Potrero Creek, Medea Creek	Agoura Hills, Westlake Village

FIGURE 1  
DISTRICT MANAGEMENT ZONES



## **2.0 FACILITY TYPES AND DESCRIPTIONS**

A variety of basin and linear facilities are maintained by the District. A comprehensive list of the District's facilities and their location, dimensions, capacities, and other pertinent information is included in the District's Catalog of Facilities (2008 Environmental Protection Measures for the ongoing Routine Operations and Maintenance Program EIR, Appendix C, periodically updated) and the Debris and Detention Basin Manual (EIR Appendix D, updated December 2017). The main types of linear facilities are Open Channel; Open Channel Inlets, Outlets, and Transitions; Bank Protection and Related Facilities; and Pipe and Box Culverts (Underground Facilities). There are about 216 miles of maintained linear facilities with open channels accounting for one-half of the total. There are 56 debris and detention basins that are maintained by the District.

### **2.1 OPEN CHANNELS**

#### **2.1.1 Channel Types**

More than 50 percent of the District's linear facilities are some type of open channel. The most abundant type is the reinforced rectangular or trapezoidal concrete channel. This is a fully lined concrete structure with either a trapezoidal or rectangular (vertical wall) channel geometry. Some of the open channels are graded, earthen channels or unlined channels, while others are grouted (i.e., concreted) riprap channels with earthen bottoms. Channel geometries for earthen channels are usually trapezoidal.

Open channels in the District can be categorized as "improved" or unimproved" channels. Improved channels have been designed for a specific storm flow conveyance capacity, with engineering drawings that specify a certain width and depth. Most "improved" channels are fully or partially lined with concrete. "Improved" earthen channels have design dimensions that must be maintained. "Unimproved" channels are full earthen channels or channels with bank protection (i.e., riprap, gunite) and a soft bottom that do not have engineered design specifications but are maintained to specific configurations as part of the District's ongoing maintenance program.

#### **2.1.2 Maintenance Activities in Channels**

Several types of routine maintenance and repair operations are conducted by the District on an annual basis. Any of these activities can occur at a facility with flowing or ponded water that would require a water diversion and appropriate BMPs.

##### **2.1.2.1 Channel Cleanout**

The District is the Principal co-permittee of the Ventura Countywide NPDES Permit and responsible for implementation of the Ventura Countywide Stormwater Quality Management Program (VCSQMP)<sup>1</sup>. The VCSQMP requires co-permittees to routinely clean catch basins, drainage facilities, detention/retention basins, and reinforced concrete open channels at least once each year prior to the wet season. At most sites, sediments are removed from the channel bottom using an excavator or a crane working from the top of the banks.

<sup>1</sup> The Ventura Countywide Stormwater Quality Management Program (VCSQMP) complies with the requirements of the Ventura Countywide National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit (Order R4-2010-0108; NPDES Permit No. CAS004002) issued by the Los Angeles Regional Water Quality Control Board (RWQCB).

**2.1.2.2 Channel Bed and Bank Repair**

Repair activities include the re-shaping and compaction of earthen channels to repair erosion damage, replacement of damaged concrete in lined channels and other in-kind replacement bank protection. Minor additions of rock riprap and/or concrete may occur in locations with repetitive scour or erosion damage. These types of repairs do not substantially alter the facility footprint or change the type of construction.

**2.2 DEBRIS AND DETENTION BASINS**

The District operates and maintains 56 debris and detention basins. The number, location, and capacity of the District's detention basins are provided in the VCWPD Debris and Detention Basin Manual. They are typically located in headwaters above developed areas. The basins are usually formed by the construction of an earthen dam that may or may not have rock facing. If basin volumes or dam designs exceed certain state criteria, they are regulated by the California State Division of Safety of Dams (DSOD). State-size facilities store more than 50 acre-feet of water or have dams that are more than 25 feet high.

**2.2.1 Debris Basins**

Most of the District basins are "debris basins" which capture large debris (sediment, boulders, trees, etc.) during winter storms. These types of basins function by allowing flood waters to pond in the basin, thereby slowing water velocity so that debris and sediment settle out in the basin.

**2.2.2 Detention Basins**

The District maintains several "detention basins," which detain large volumes of water during the early phases or peak of a storm event, then slowly release the water over time. These basins reduce the peak downstream flows, which reduces flooding.

**2.2.3 Maintenance Operations**

Basins require a certain storage volume to perform in accordance with the design criteria. As sediments accumulate, the design storage volume is decreased, and the basin will not function as designed. Hence, sediments must be removed to maintain the design volume. Basins are cleaned on an as-needed rather than annual basis. A debris basin "cleanout" occurs in advance of each upcoming rainy season and/or immediately following the rainy season if any sediment and debris have accumulated to fill approximately 25% of the design capacity. If the watershed upstream of the basin is burned in the preceding five years, the basins will be cleaned in advance of the rainy season and may be cleaned several times per year until the vegetation in the watershed recovers.

### **3.0 ASSESSING FIELD CONDITIONS**

Prior to a maintenance or repair activity in a channel or basin with ponded or flowing water, the District or its contractor will determine the need for a water diversion, the appropriate type of water diversion and appropriate BMPs for the activity. This requires the District or its contractor to perform a pre-construction assessment of field conditions, including the type of facility, flow conditions and the potential for aquatic habitat.

#### **3.1 ASSESSMENT OF FLOW CONDITIONS**

##### **3.1.1 Open Channels**

Some open channels within the District have year-round or perennial flow. Most substantial flows occur in the channels during and immediately following rain events. However, water can be present year-round due to “nuisance” discharges from storm drains, high ground water seeping from “weepholes” in concrete lined channels and agricultural return flows. Some channels have perennial flows due to permitted discharges from water or wastewater treatment plants.

Although the rainy season runs approximately from October to April, intermittent flows can be present any time of the year due to urban or agricultural discharges or monsoonal storms. Provisions for water diversions should always be incorporated into project planning. For coastal facilities, the influence of tidal flows will need to be taken into consideration.

Water diversion and incorporation of appropriate BMPs during a routine maintenance or repair operation in an open channel is indicated under the following flow conditions:

- The maintenance or repair activity is to be conducted in the rainy season between October and April.
- The channel is normally dry, but intermittent urban or agricultural discharge may occur.
- The channel conveys tidal flows or is tidally influenced,
- The channel conveys perennial flows from either man-made or natural upstream sources.
- Flow or ponded water is present in an earthen bottom channel.
- Flows or ponded water within a concrete-lined channel are 2 inches or deeper. Routine cleaning of dry or nearly dry concrete lined channels with less than 2 inches of water is conducted with downstream BMPs (e.g. wattles) to prevent turbidity.

##### **3.1.2 Debris and Detention Basins**

A water diversion is needed in a debris or detention basin when water is either flowing into the basin or ponded within it and the maintenance activity will potentially impact downstream water quality or aquatic habitat. Water may be ponded within a basin due to groundwater seepage or retained storm flows. A water diversion with appropriate BMPs is indicated for routine maintenance under the following flow conditions:

- Water is flowing or may flow into the basin from an upstream source.
- Water is ponded within the basin.

### 3.2 ASSESSMENT OF POTENTIAL AQUATIC HABITAT

Most District flood control facilities in the District are managed to minimize riparian, wetland, and aquatic habitat. However, measures must be taken during water diversions to protect aquatic habitat and species if they are present. Facilities that convey flows for sensitive species are identified in the Catalog of Facilities (Table 3-1).

A biological survey must be conducted by a qualified biologist for facilities with potential habitat for native aquatic species prior to initiation of the water diversion and any maintenance or repair activity. Prior to initiating work the District must determine if the following conditions that may require a biological survey are present at the facility:

- The facility may support special status species (Table 3-1).
- The facility supports wetland or riparian vegetation, or aquatic wildlife, or these resources occur downstream.
- The facility is an earthen bottom channel or debris basin with ponded or flowing water.
- The facility conveys perennial or intermittent flows from a man-made or natural upstream source.
- The facility conveys tidal flows or flows that are tidally influenced.
- The facility is a concrete-lined channel conveying flows deeper than two inches.

Prior to initiating work, if the District or its contractor observes the above conditions at a facility with flowing or ponded water, the District will assign a qualified biologist to conduct the biological survey.

**TABLE 3-1  
WATERSHED SUMMARY OF POTENTIAL SPECIAL STATUS SPECIES**

<b>Watershed</b>	<b>Zone</b>	<b>Aquatic Sensitive Species with Potential to Occur</b>
Ventura River	1	California Red-Legged Frog, Southwestern Pond Turtle, Southern Steelhead, Tidewater Goby
Santa Clara River	2	Arroyo Toad, Southwestern Pond Turtle, Southern Steelhead, Tidewater Goby
Calleguas Creek	3	Arroyo Chub, Southwestern Pond Turtle
Malibu Creek	4	Southwestern Pond Turtle

If the pre-construction biological survey indicates that the facility or reach downstream of the facility has the potential for native aquatic habitat, BMPs for the protection of aquatic life must be implemented as part of the water diversion. BMPs for the protection and relocation of aquatic life are included in Section 5.6 of this document and additional recommendations or requirements may be provided by the qualified biologist as part of the survey.

If the biological survey indicates the potential presence of a threatened, endangered, or sensitive aquatic species, District requirements for the protection of listed species must be implemented as

required under the District's biological opinion and take permit for that species or other appropriate documentation.

### **3.3 GROUNDWATER DEWATERING**

A high-water table is usually associated with a basin but may also occur within channels. Maintenance and repair activities requiring excavation below the water table require groundwater dewatering to maintain a dry work area. The RWQCB prohibits activities involving wet excavations (i.e., excavations below the seasonal high-water table) unless authorized by an NPDES or Waste Discharge Requirement.

To comply with the requirements established by the Los Angeles RWQCB for groundwater dewatering, the following applies to maintenance or repair activities requiring excavation.

- In non-coastal areas, groundwater tables fluctuate seasonally, and high groundwater may be avoided by scheduling maintenance and repair activities in the dry season.
- A minimum 5-foot buffer zone must be maintained above the existing activities, unless authorized by RWQCB.
- If groundwater dewatering is proposed or anticipated, the District will file a Report of Waste Discharge to the RWQCB and obtain any necessary NPDES permits/ Waste Discharge Requirements prior to discharging groundwater to a waterway.
- If groundwater is encountered without the benefit of appropriate permits, the District or District contractor will cease all activities in the areas where groundwater is present until the RWQCB is notified and the necessary NPDES permits/Waste Discharge Requirements are obtained.

## **4.0 WATER DIVERSION METHODS**

### **4.1 WATER DIVERSION COMPONENTS**

The purpose of water diversion is to prevent flowing or tidal waters from entering a work area. In general, the work area may be isolated by the impounding of flows behind a coffer dam or within an in-stream excavated basin. Flows from the coffer dam or excavated basin are routed around or through the work area by a bypass system. The bypass system may consist of a pipeline, excavated channel, lined flume, or a bermed portion of the existing channel. Because of the potential of the water diversion to impact water quality and potential aquatic life, appropriate BMPs must be incorporated into the design and operation of the water diversion. Water diversion design and planning must typically consider the following:

- Design and construction of cofferdam or excavated basin
- Design of bypass system
- Management of sediment
- Bypass outlet
- Water quality monitoring
- Protection of aquatic species and habitat
- Equipment and website use

### **4.2 COFFERDAMS**

#### **4.2.1 Types of Cofferdams**

Temporary cofferdams are used to keep flowing or ponded water out of facility work areas. Cofferdams are used with bypass systems to divert water either around or through the work area. Cofferdams can be generally categorized as transverse or longitudinal, and with or without tidal conditions (Figure 2). BMPs for the design and construction of cofferdams are provided in Section 5 of this document.

Coffer dams may be constructed of sandbags or native earthen materials wrapped in visqueen, inflatable dams, compacted earth, brick and mortar, or k-rails. In earthen bottom channels, coffer dams may be constructed from materials excavated from the temporary low-flow channel. Inflatable dams (e.g., bladders) should only be used in channels/waterways that have a relatively flat substrate (i.e., concrete lined channels or similar). Pipes (with or without rubber donuts or sandbags) should not be placed beneath the bladder. In addition, sandbag cofferdams are ineffective at preventing water seepage unless plastic (e.g., visqueen) is placed underneath.

As described in Section 5.7.3, no wet concrete product shall encounter any flowing or standing water at any time to avoid pH water quality impacts. Areas where raw cement or grout are applied or where concrete curing or finishing operations are conducted to construct a cofferdam shall be separated from any ponded or diverted water flows until fully dried/cured. All equipment involved with the concrete or grouting operations shall be located within a contained area while using any slurry or concrete product.

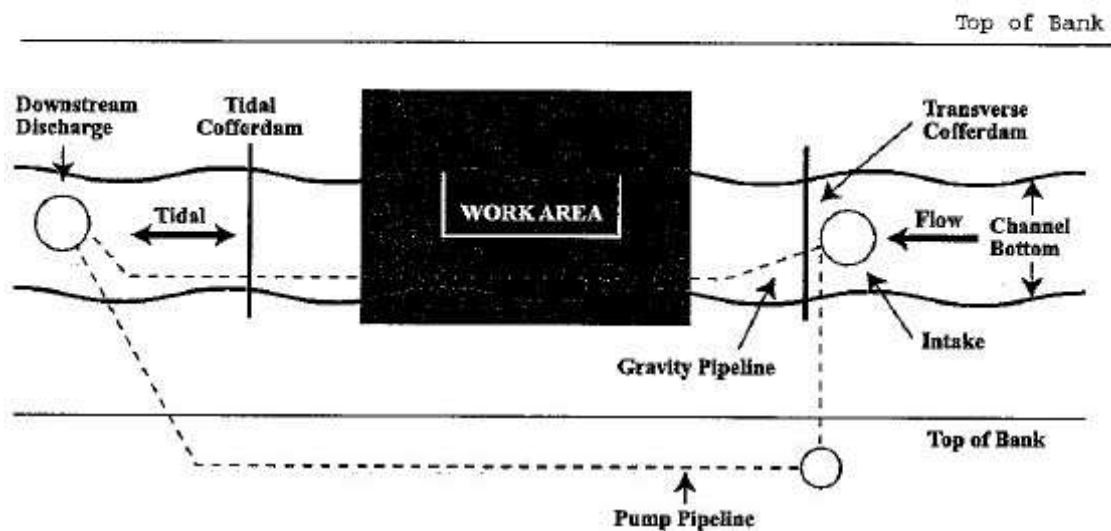
**4.2.1.1 Transverse Cofferdam**

Transverse cofferdams are used in channels or basins to span the entire cross-section of the facility upstream of the maintenance or repair activity. Water is impounded upstream of the cofferdam and a bypass system is used to route flows through or around the work area.

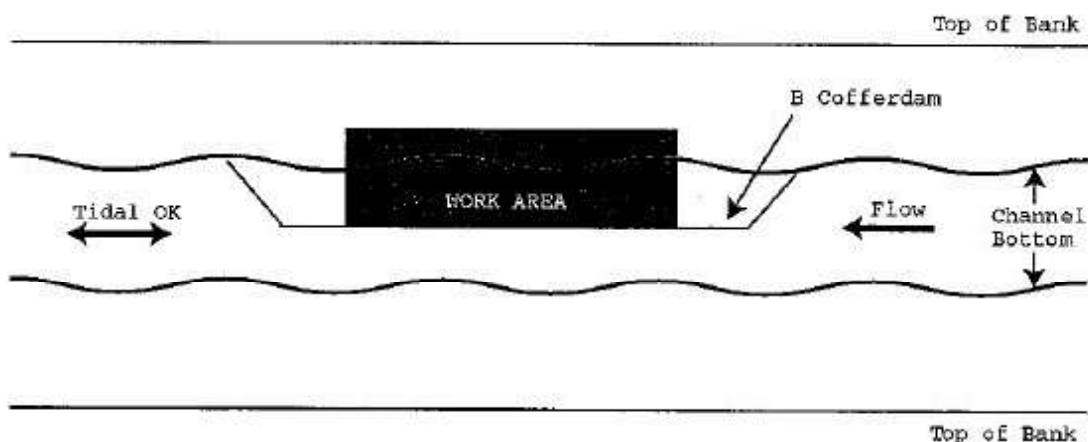
**4.2.1.2 Longitudinal Cofferdam**

A longitudinal cofferdam allows work to proceed in a portion of the channel while allowing natural flow to continue along the remaining part of the channel. Longitudinal cofferdams are typically constructed parallel to the channel or basin banks. Water quality monitoring is not required when the flow is simply moved to one side of the channel using a longitudinal cofferdam and bypass system as shown below.

**FIGURE 2**  
**COFFERDAM AND BYPASS SYSTEMS**  
**Plan View of Transverse Cofferdam and Bypass System**



**Plan View of Longitudinal Cofferdam and Bypass System**



### 4.2.1.3 Tidal Cofferdams

In channels that convey tidal flows or are tidally influenced, transverse or longitudinal cofferdams may be constructed. A transverse coffer dam in a tidally influenced channel may require a cofferdam both upstream and downstream of the work area. The downstream transverse cofferdam must be constructed at a height adequate to retain tidal flows and must be sturdy enough to withstand tidal surge. If a longitudinal cofferdam is constructed, the bypass channel must have adequate flow capacity to accommodate tides. Tidal cofferdams should be installed and removed at low tide.

## 4.3 BYPASS SYSTEMS

Bypass systems are used to divert water impounded by an upstream cofferdam around or through the work area. Bypass systems typically consist of pipelines, excavated low-flow channels or constructed channels or flumes. A berm constructed in the channel bottom may also be used to route low flows around the work area. Selection of a bypass system design depends on the type of facility and activity, cofferdam design, flow conditions, and presence of aquatic habitat.

Transverse and tidal cofferdams diversions typically incorporate a pipeline to convey water through the work area. The pipeline may operate by gravity flow or require water to be pumped. Low flow conditions or channel geometry in an earthen bottom channel may require the excavation of an upstream basin and standpipe to facilitate pumping (Figure 3).

**FIGURE 3  
INTAKE CONFIGURATIONS**



Bypass systems for longitudinal cofferdams may consist of an open channel formed by the cofferdam or berm, an excavated low-flow channel adjacent to the work area, a constructed open flume, or a pipeline.

Outlet protection may be required as part of a bypass system to reduce the velocity and energy of concentrated flows by placing temporary devices or rock at pipe outlets. Outlet protection helps prevent scour in earthen bottom channels and prevents erosion and reduces turbidity.

## **5.0 WATER DIVERSION BEST MANAGEMENT PRACTICES**

### **5.1 GENERAL WATER DIVERSION BMPS**

#### **5.1.1 Maintenance and Repair Planning**

Prior to maintenance and/or repair activities, the District must determine if a water diversion is necessary and incorporate any water diversion into pre-project planning. Planning for water diversions during maintenance and repair activities should incorporate and identify the following:

- A pre-maintenance biological survey must be conducted by a qualified biologist for facilities with potential habitat for native aquatic species prior to initiation of the water diversion and any construction work (Section 3.2).
- Proposed cofferdam construction methods, materials, and installation, maintenance and removal requirements.
- Identification of erosion control BMPs, including methods, materials, and installation, maintenance and removal requirements.
- A map or drawing indicating the location of cofferdams, type and location of bypass system, anticipated water retention depth, cofferdam height, and location of downstream discharge point.
- Location of proposed upstream and downstream water quality monitoring sites.

#### **5.1.2 Operation and Maintenance**

- The water diversion and work area dewatering system must be in place and functional before in-channel work can begin.
- While the water diversion is in place, it must be operational 24 hours a day.
- Inspection and maintenance of the water diversion and associated erosion and sediment control BMPs should be conducted daily.
- Maintenance and/or repair activities shall not be conducted during a rainfall event.
- During cofferdam operation, all water from upstream shall always be allowed to pass downstream to maintain aquatic life below the water diversion.

#### **5.1.3 Removal Post-Maintenance**

- The cofferdam, bypass system, and erosion control will be removed when the work is completed. Removal normally proceeds downstream in an upstream direction.
- Remove temporary fill as appropriate, such as access ramps diversion structures or earthen cofferdams. Earthen material excavated from the channel bottom for the construction of temporary in-channel berms or channels may be left in place with recontouring to allow proper flows post project.
- Normal flows should be restored to the affected stream immediately upon completion of work.

**5.2 COFFERDAMS****5.2.1 General Design Considerations for Cofferdams**

- Cofferdams will be designed with adequate height to retain dry weather flows and anticipated storm flows or be removed prior to storms.
  - Cofferdam height for non-tidally influenced channels should generally be higher than the normal high-water mark.
  - Cofferdam height is to be established by the District based on facility dimensions and conditions, existing flow conditions, time of year, and other pertinent factors.
- Cofferdam construction will be adequate to prevent seepage into or out of the work area.
- Cofferdams may be constructed from sandbags wrapped in visqueen, inflatable dams, compacted earth, brick and mortar, k-rails, or other appropriate material.
- Seepage shall be prevented to the extent feasible using plastic (e.g., visqueen) or sealants.
- Cofferdams constructed of earth or other erodible materials will be enclosed by erosion control measures, such as filter fabric, silt-fencing, or other appropriate materials.
- Materials used for the construction of earthen cofferdams will not incorporate contaminated sediments; i.e., concrete, pavement, trash, or debris.
- Longitudinal cofferdams in low-flow channels may be constructed from alluvium excavated from the channel and compacted on-site.

**5.2.2 Inspection and Maintenance**

- Inspect all system components twice a day.
- Check for water seepage under the dam and general integrity of the dam, repair as needed.
- Repair all leaks immediately.
- In concrete-lined facilities, the upstream water collection pool shall be cleaned and cleared of sediment and debris regularly to prevent water quality deterioration.
- Clean all debris, dust, loose materials from the work area daily.
- Place wattles, filter fabric, and silt fencing across the flow stream downstream of the work area to catch/filter water in case it is unintentionally discharged the work area:
- Clean water intake to prevent/correct clogging.

**5.2.3 Removal**

- Once project work is complete, reintroduce water into the channel in a manner that avoids turbidity.
- Remove imported construction materials.
- After removal of the cofferdam, dismantle the bypass system and restore disturbed area to pre-construction grades.
- Flows in an earthen bottom channel may be left within the temporary low-flow channel if re-introduction of the flows to the work area would result in excessive discharge of sediment downstream.

**5.3 BYPASS SYSTEMS****5.3.1 General Considerations for Bypass Systems**

- Flows within the bypass will be maintained to the greatest extent feasible in order to maintain adequate water quality and quantity to support fish and other aquatic life.
- During the water diversion, the following upstream and downstream monitoring will be conducted:
  - pH, temperature, dissolved oxygen, turbidity, and total suspended solids (and/or other constituents as required by current permits) monitoring will be implemented.
  - Monitoring will generally be conducted daily during the first week of diversion activities, and then on a weekly basis, thereafter, until the in-stream work is complete.
  - Results of the analyses will be retained by the District and submitted to regulatory agencies as required.

**5.3.2 Open Channel Bypass Systems**

- An open channel bypass will be protected from erosion or spillage of material from channel and basin banks and slopes using readily available BMPs.
  - BMPs include the placement of filter fabric, silt fencing, straw bales, sandbags on cofferdam banks, channel banks, and slopes.
- An upstream silt catchment basin may be constructed so that silt or other deleterious materials are not allowed to pass into the open channel. The silt catchment basin should be monitored and cleaned/repared weekly.
- For facilities that support sensitive species or in perennial streams, an open bypass channel or flume may be required in conjunction with a longitudinal cofferdam.

**5.3.3 Pipeline Bypass Systems**

- Bypass systems with pipelines may be gravity flow or pumped as necessary.
- When using a gravity flow system, the pipeline must slope continuously downgrade and, therefore, may have to pass through or near the work area.
- Intakes and/or excavated basins may be required for gravity flow or pump-fed bypass systems (see Figure 3).
  - Turbulence around the intake and associated turbidity can be reduced by means of ponding water behind the cofferdam or in an excavated sump.
  - In earthen bottom channels or basins, the intake pipe end should be substantially above the bottom of the ponded water or excavated basin as shown in Figure 3 to avoid discharge of sediments.
  - For gravity systems, a standpipe arrangement is very effective (see Figure 3). An intake filter can also be used to screen out sediment but can be easily clogged.
  - All intakes systems with pumps must be fitted with screens.
- Outlet protection should be incorporated at the pipe outlet to prevent generation of turbidity erosion, and scour. Refer to Outlet Protection BMPs in this Section.
- As dry weather flows vary, the contractor may select the proper size pump in the field. A backup pump should be provided.
- Bypass pipes have the potential to heat the water and may require shading to prevent temperature increases in diverted water.

**5.4 SEDIMENT CONTROL ACTIVITIES**

- Work areas, channel banks, or stockpile areas adjacent to the water diversion area that could be subject to erosion during storm events will be stabilized with erosion control measures.
  - Appropriate erosion control materials include silt fencing, sandbags, filter fabric, coir rolls, or wattles.
  - In low flow channels, an upstream silt basin may be constructed so that silt or other deleterious materials settle out before passing through the water diversion area.
  - Erosion control methods used to prevent siltation should be monitored and cleaned/repared weekly.
- Sediment may be discharged downstream as a result of returning flows to the original low-flow channel:
  - When returning flows, minimize the discharge of sediment by installing filter fabric, wattles, or silt fencing downstream of the work area.
  - Bypass flows should be introduced into the dewatered area at the lowest velocity possible to minimize potential erosion and turbidity.
- Water diversions are not typically used by the District during clean-outs of concrete-lined channels devoid of fish or aquatic life where flows are minimal (less than 2 inches deep) and channel widths are narrow (25 feet or less). In low-flow concrete-lined channels, the District uses small bulldozers or “bobcats” working upstream to downstream within the channel bottom to scrape sediment, trash, and debris into piles for collection. In-stream BMPs typically used by the District for this type of channel clean-out include primary and secondary placement of wattles (net-wrapped coir rolls/wattles) downstream of the work area across the channel width. In low-flow conditions, 6-inch diameter wattles are adequate to contain and filter flows within a concrete-lined channel. Proper placement and removal of the wattles prevents the discharge of sediment and debris downstream of the work area.

**5.5 OUTLET PROTECTION**

- Place effectively sized outlet protection underneath pipeline outlet of where diverted water is discharged into stream.
- Rock aprons are the most common type of outlet protection for high flows; however, erosion control fabric, wattles, or silt fencing may be installed at the outlet to provide additional velocity reduction.
- Energy dissipation or other protection may not be necessary if the discharge is to an existing hardened structure (culvert, riprap, or concrete), to deep water or a heavily vegetated area.
- When designing the outlet project, consider flow depth roughness, gradient, side slopes, discharge rate, and velocity.
- If the discharge is to a tidal area, it may be necessary to equip the discharge pipe with a flap gate to prevent tidal flows from backing up into the intake.

**5.6 AQUATIC LIFE PROTECTION MEASURES**

If the results of the pre-construction biological survey indicate that the facility has the potential for native aquatic life, protective measures shall be taken during water diversions to prevent entrapment and mortality of fish and amphibians. If the survey determines that the aquatic life present at the site is and will be only composed of invasive or exotic species, no further action to protect aquatic species during the water diversion is necessary.

The following are minimum measures to be undertaken to protect native aquatic life during the construction, operation, and removal of a water diversion. During construction of the water diversion and during removal, a qualified biologist will be onsite to oversee measures undertaken to prevent entrapment and mortality of native aquatic life. Recovery and replacement of aquatic life may be undertaken by personnel under the supervision of the qualified biologist. For listed and sensitive species, only a qualified biologist with the proper permits may conduct such activities.

**5.6.1 Prior to Cofferdam Construction**

- Prior to construction of cofferdams, the channel section shall be isolated at the upstream and downstream ends and aquatic organisms removed and relocated by a qualified biologist.
  - Block nets shall be secured upstream and downstream of the channel section fully spanning the cross section of flow.
  - Block nets shall be secured into the substrate in soft channel bottoms or weighted across the channel cross section in hard bottom channel.
  - A seine net shall be used within the isolated area to recover fish, macro-invertebrates, and amphibians under the direction of the biologist.
  - Recovered aquatic life may be placed and transported in water-filled buckets to be released downgradient of the work site.
  - A minimum of three full channel sweeps should be conducted to remove aquatic organisms prior to commencement of dewatering.
  - Alternatives to seine netting, such as electro-shock must be approved by CDFW/NMFS first and then implemented by the site biologist.
  - After initial seine netting and removal of aquatic life, cofferdams may be constructed within the area isolated by the block nets.

**5.6.2 Protection of Aquatic Life During Bypass Operation**

- Pump inlets and outlets shall be protected using an appropriate mesh screen:
  - Mesh size will be based on protection of smallest native fish or amphibian species as established by field survey.
  - Default mesh size is 5 mm.
- Bypass pipelines will be adequately sized to pass flows and maintain existing water flows downstream of the work area.

**5.6.3 Dewatering of Work Area**

- Seine nettings of organisms shall continue during dewatering of the dry work space under supervision of the qualified biologist.

- All block nets should be periodically checked for impingement of fish or other wildlife and cleaned of debris to avoid collapse.

**5.6.4 Maintaining Flow Through Work Site**

- For water diversions where an open flow channel is maintained or an alternative flow channel is excavated, measures shall be taken to ensure that adequate flows are maintained and that aquatic organisms are not trapped or stranded.
- Flow downstream of the work site shall be maintained during construction and operation of the cofferdams.
- A downstream coffer dam shall be constructed in tidal areas for downstream flow protection (water surges upstream of the work area have occurred unexpectedly at times; water may overtop the upstream coffer dam and enter the work area).

**5.6.5 Re-establishing Flows Post-construction**

- During flows into an existing channel from a temporary channel, the qualified biologist shall survey the de-watered temporary channel to ensure that aquatic organisms are not trapped or stranded.
  - Trapped or stranded organisms will be placed in water-filled buckets for transport and release into the existing flow channel.
  - Applicable to diversions in soft bottom channels: if aquatic life has established itself within a temporary channel during the time of construction, flows may be left within the temporary channel.

**5.7 EQUIPMENT AND VEHICLE USE****5.7.1 Equipment Operation**

- Stationary equipment such as motors, pumps, generators, and welders located within or adjacent to the channel or basin will be positioned over adequately sized secondary containment.
- Access to the work site via existing roads and access ramps will be shown on the project plans. If no ramps are available in the immediate area, a temporary ramp may be constructed within the flagged work area. Any temporary ramp will be removed upon completion of the project.

**5.7.2 Equipment Maintenance During Construction**

- Any equipment or vehicles driven and/or operated within or adjacent to the channel or basin should be checked and maintained daily, to prevent leaks of materials that could be deleterious to aquatic life if introduced to water. All maintenance will occur in a designated offsite area. The designated area will include a drain pan or drop cloth and absorbent material to clean up spills.
- Fueling and equipment maintenance will be done in a designated area removed from the area of the channel or basin such that no petroleum products or other pollutants from the equipment may enter these areas via rainfall or runoff. The designated area will include a drain pan or drop cloth and absorbent materials to clean up spills.

**5.7.3 Spill Prevention, Control, and Containment**

- Prior to maintenance or repair activities, the District or Contractor will identify the methods, materials, and procedures for spill prevention, control, and containment. This information will be incorporated into the contract documents. Spill containment methods should address the types of materials and equipment to be used at the site. Materials for the containment of spills (i.e., absorbent materials, silt fencing, filter fabric, coir rolls) should be identified and be available onsite prior to commencement of maintenance and/or repair activities.
- Any accidental spill of hydrocarbons or coolant that may occur within the work area will be cleaned immediately. Absorbent materials will be maintained within the work area for this purpose.
- No wet concrete product will encounter any flowing or standing water at any time. Areas where raw cement or grout are applied or where concrete curing or finishing operations are conducted will be separated from any ponded or diverted water flows by a cofferdam or silt-free, exclusionary fencing. All equipment involved with the concrete or grouting operations will be located within a contained area while using any slurry or concrete product. The protective berm or other structure will be in place prior to maintenance and/or repair activities.
- Any spill of the grout, concrete curing, or wash water adjacent to or within the work area will be removed immediately.
- During concrete spill clean-up operations and until cessation of maintenance and/or repair activities, pH monitoring will be conducted daily upstream and downstream of the spill site. The results of post-spill pH monitoring will be submitted to the District and kept with the contract documents.
- If vacuum trucks are used to clean up a spill into ponded or diverted water, the vacuum hose should be placed in a 3-to-4 square foot area and protected on all sides by exclusionary fencing to prevent the migration of contaminants. The intake of the vacuum hose should be protected with 5 mm mesh screen to prevent uptake of aquatic life or as determined by regulatory permits.

## **6.0 REGULATORY SUMMARY**

Many of the District's facility maintenance activities occur in watercourses or basins where such activities are regulated by state, federal, or local agencies. The District obtains both individual project permits as well as long-term permits to address routine maintenance and repair activities. This section of the Guidance describes the applicable regulatory authorities and permit requirements for the maintenance program.

### **6.1 FEDERAL AGENCIES**

#### **6.1.1 U.S. Army Corps of Engineers**

Activities that result in the discharge of dredged or fill material in natural watercourses (such as bank stabilization and channel shaping) are regulated by the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (CWA). Most of the District's maintenance and repair activities are permitted under Nationwide Permits (NWP) No. 3, No. 31, and No. 33. Alternatively, maintenance actions in this program may be authorized under a Regional General Permit or Individual Permits.

#### **6.1.2 U.S. Fish and Wildlife Service and National Marine Fisheries Service (NMFS)**

The requirements of the Endangered Species Act (ESA) apply to any project permitted under a CWA Section 404. An ESA Section 7 Incidental Take Permit is needed if action taken for a project would have the potential to adversely affect listed species or designated critical habitat, either directly or indirectly. Section 7 consultation process takes place concurrent with the Section 404 permit review process. Facilities that convey flows for sensitive species are identified in the Catalog of Facilities.

### **6.2 STATE AGENCIES**

#### **6.2.1 Regional Water Quality Control Board**

The Regional Water Control Board (RWQCB) Los Angeles Region administers both the Section 401 Water Quality Certification Program and programs under Section 402 of the CWA, including the National Pollutant Discharge Elimination System (NPDES) in Ventura County.

##### **6.2.1.1 Section 401 Water Quality Certification**

The RWQCB requires a Section 401 Water Quality Certification for any activity undertaken under a Section 404 permit. Projects that require water diversions during maintenance and/or repair activities are required by the RWQCB to submit a separate Water Diversion Plan. This Update to the District's 2007 Water Diversion Guide incorporates measures in compliance with the current Section 401 certification requirements for water diversions undertaken by the District. .

##### **6.2.1.2 Section 402**


Section 402 of the Clean Water Act governs the NPDES which regulates point source discharges to waters of the United States. The RWQCB issues both NPDES permits for point source discharges to surface water and groundwater.

A maintenance or repair activity undertaken by the District may require the submittal of a Notice of Intent (NOI) for coverage under the California Construction General Stormwater Permit. This permit requires the preparation of a Stormwater Pollution Prevention Plan (SWPPP). If a water diversion is needed, the appropriate BMPs are incorporated into the SWPPP.

Waste Discharge Requirements (WDRs) can be required for water diversions, dewatering activities or any type of pumping and release of water. Short-term water diversions for District routine maintenance does not normally require WDRs unless there is a need for groundwater dewatering. Groundwater dewatering operations are not covered under this Guidance or the Maintenance Program EIR and will be permitted separately under the following general permit: *Order No.: R4-2018-0125 (Permit No. (CAG 994004), General National Pollutant Discharge Elimination System and Waste Discharge Requirements for Discharges of Groundwater from Construction and Project Dewatering to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the State Board on September 13, 2018.*

### **6.2.2 California Department of Fish and Wildlife**

The modification to the bed, bank, and/or vegetation in a natural drainage (and certain man-made drainages) is regulated by the California Department of Fish and Wildlife (CDFW) under Section 1600 of the Fish and Game Code. Such modifications require a Streambed Alteration Agreement. A Section 2081 review process for state listed threatened and endangered species will take place concurrent with the Streambed Alteration Agreement permit review process.



# APPLICATION PROTOCOL - Pesticides, Fertilizers, and Herbicides

# Application Protocol Pesticides, Fertilizers, and Herbicides

## 1.0 Ventura County Municipal NPDES Stormwater Permit

The purpose of this standard operating procedure (SOP) is to define an application protocol for the routine and non-routine application of pesticides, fertilizers, and herbicides (including pre-emergents). This SOP provides a comprehensive policy to comply with the Ventura County Permit (CAS004002), a guidance to provide for consistent implementation countywide for Ventura County Watershed Protection District (VCWPD), the County of Ventura, the Cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks (referred to separately as Co-permittees), and a method for reducing runoff of pesticides, fertilizers, and herbicides to the storm drain system. This protocol was amended to reflect new requirements in the May 7, 2009 Ventura County Municipal Stormwater Permit, Order No. 09-0057 and further amended February 27, 2014 to fix typographical errors and reference the July 8, 2010 Ventura County Permit, Order 2010-0108 and current California Aquatic Pesticide NPDES Permits

## 2.0 Scope

The scope of this application protocol is to focus on preventing pesticides, fertilizers, and herbicides from entering the storm drain system and discharging to receiving waters. This protocol is applicable to 1) the outdoor use of pesticides, herbicides, and fertilizers; 2) the use of pesticides and fertilizers where the materials may come into contact with precipitation; 3) the use of pesticides, herbicides, and fertilizers where these materials may come into contact with runoff (natural or induced); and 4) the use of pesticides, herbicides, or fertilizers anywhere where they may be directly or indirectly discharged to a storm drainage system.

This protocol is applicable to any Co-permittee staff and contracted services that apply pesticides, fertilizers, or herbicides. Such staff commonly include, park, public works, purchasing, building/grounds maintenance, hazardous materials, and pesticide application staff.

This protocol is not applicable to the indoor use of pesticides, herbicides or fertilizers, but is applicable to the consequential outdoor handling, mixing, transport, or disposal of materials related to indoor use. This protocol does not apply when other NPDES permits and/or abatement orders are in effect at the selected site.

Furthermore, this protocol is not intended to replace federal or state requirements or provide complete directions for applying, handling, transporting, mixing, or storing pesticides, fertilizers, or herbicides. Consult federal and state requirements for this additional information. Use information for each pesticide, fertilizer, or herbicide can be found on the manufacturer's label. Additional safety information can be found in chemical-specific safety data sheets (SDSs).

## 3.0 Definitions

**Application** – means the use of the product as a fumigant, direct surface spray, treatment, drench, injection, incorporation, side-dressing, pre-emergent, furrowed spread, or broadcast agent.

**California Department of Pesticide Regulation (CDPR)** – The state agency responsible for regulating the use of pesticides in California.



**Direct Supervision** – A QAC (or QAL, if services contracted) is available, (within the location as specified in the Monthly Summary Pesticide Use Report Form located on the California Department of Pesticide Regulation website: <http://www.cdpr.ca.gov/docs/enforce/prenffrm/enf060.pdf>) to directly manage and control the application (of any pesticide, herbicide, or fertilizer) by supervising others. The QAC or QAL manages and controls the application of pesticides, herbicides, and fertilizers through available verbal communication to include direct interaction, telephones, cellular phones, 800 MHz phones, and radios.

**Feasible** – means capable of being accomplished in a successful manner, within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

**Forecasted Storm Event** – A weather event predicted to commence within the next 24-hour time window, where at least 0.25 inches of rain or more is forecasted to fall.

**Herbicide** – A common pesticide focused on killing weeds and other plants that grow where they are not wanted.

**Integrated Pest Management (IPM)** – means a sustainable approach to managing pests by combining biological, cultural, physical and chemical tools in a way that minimizes economic, health, and environmental risks.

**Manufacturer's Label** – The main source of information on how to use the product correctly, safely, and legally. The main sections of a label are: common name and brand name, active ingredient, EPA registration number, signal words, first aid, directions for use, and storage/disposal.

**Safety Data Sheets (SDSs)** – An information sheet provided by a chemical manufacturer describing chemical qualities, hazards, safety precautions, and emergency procedures to be followed in case of a spill, fire, or other emergency.

**Non-Routine Application** – A non-scheduled application to include a “one-time” or an “emergency” use of pesticides, herbicides, and fertilizers.

**Notice of Intent (NOI) for Pesticide Usage** – An oral or written notification submitted prior to the use of a restricted use pesticide, pursuant to a permit.

**Pesticide** – Defined by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as “...any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or any other forms of life declared to be pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

**Qualified Applicator Certificate Holder (QAC)** – Any person who has successfully passed the California State Pesticide Laws and Regulations exam, and qualified in one or more pest control categories and may therefore apply restricted materials, supervise pesticide application, but who is not entitled to supervise the operations of a pest control business.

**Qualified Applicator License Holder (QAL)** – Any person who has successfully passed the California State Pesticide Laws and Regulations exam, and qualified in one or more pest control categories and may therefore apply restricted materials and supervise the pesticide application/operations made by a licensed pest control business.

**Routine Application** – A scheduled (weekly, quarterly, annually, etc.) use of a pesticide, herbicide, or fertilizer to attain a specific goal.



**Signal Word** – Defines approximately how hazardous a pesticide could be to people by using descriptors such as DANGER, WARNING, CAUTION, or DANGER-POISON.

**Storm Event** – A weather event that produces more than .25 inch of precipitation.

**Use** - means any pesticide related activity including:

Pre-application to include arranging for application, mixing, loading, and making necessary preparations for application;

Application of the pesticide; and

Post-application activities – control of the treated area, management of the treated area, transportation, storage, disposal of excess pesticides, equipment wash, containers, and cleaning of equipment.

Use does not include emergency responders, commercial transportation, manufacturing, formulating, or packaging.

## 4.0 Responsibilities

### Co-permittees shall:

- a. Designate a QAC or QAL holder, to provide advice and assistance in all matters related to pesticide usage, disposal of products, and safety.
- b. Provide pesticide applicators (including contracted businesses) with appropriate record keeping forms to document pesticide use <http://www.cdpr.ca.gov/docs/enforce/prenffrm/enf060.pdf> (Attachment A).
- c. Annually verify that the purchasing, storing, mixing, loading, and safety tasks for pesticide, fertilizer, and herbicide use are in accordance with this protocol, applicable laws, and regulations including the current and valid QAC/QAL certifications.
- d. Verify that no banned or unregistered pesticide is stored or applied.
- e. Request landscapers to implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs.
- f. Coordinate annual refresher training courses for all pesticide handlers to meet the continuing education requirements.

### Pesticide applicators shall:

- a. Be certified as or under the direct supervision of, a QAC or QAL holder and be properly trained to start work with pesticides, fertilizers, and/or herbicides.
- b. Follow manufacturer's label instructions and this SOP. When such instruction is in conflict with this SOP, the label instructions will be followed.
- c. Ensure that no banned or unregistered pesticide is stored or applied.
- d. Follow the policies and procedures established in this application protocol.
- e. Report any unsafe work practices to their respective supervisors.



## **4.1 Integrated Pest Management Program (IPM)**

Co-Permittees and Pesticide applicators shall implement an IPM program by May 7, 2010 that includes the following:

- a. Pesticides are used only if monitoring indicates they are needed according to established guidelines.
- b. Treatment is made with the goal of removing only the target organism.
- c. Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial, non-target organisms, and the environment.
- d. Its use of pesticides, including Organophosphates and Pyrethroids do not threaten water quality.
- e. Partner with other agencies and organizations to encourage the use of IPM.
- f. Adopt and verifiably implement policies, procedures, and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) in the Permittees' overall operations and on municipal property.
- g. Policies, procedures, and ordinances shall include commitments and timelines to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
  - 1. Quantify pesticide use by its staff and hired contractors.
  - 2. Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
  - 3. Demonstrate reductions in pesticide use.



## 5.0 Environmental Conditions

Environmental conditions (weather and site conditions) required for application of pesticides, fertilizers, and herbicides is dependent upon label and Ventura County Stormwater Permit requirements. Site conditions are determined by visually (V) observing the area for situations or by collecting information from recognized weather forecasting (F) organizations. For example, storm events can be tracked on the on National Weather Service's National Oceanic and Atmospheric Administration (NOAA) website. <http://www.weather.gov/>.

The following table is provided as a guide to applicators where weather or site conditions may impact the application of the pesticide, fertilizer, or herbicide. Weather/Site conditions must be verified for all listed conditions. Forecasting may be used for other weather/site conditions, but is necessary to establish a 24-hour timeframe prior to actual rainfall. A "Yes" indicates the weather/site conditions where application of pesticides, fertilizers, and herbicides may occur. A "No" indicates weather/site conditions where application of pesticides, fertilizers, and herbicides may not occur.

Weather/Site Conditions	Form of Determining Weather/Site Conditions	Routine Application	Non-routine Application
Wind-free (sufficient to avoid spray drift from point of application)	V	Yes	Yes
Storm events (see definition)	V	No	No
Within one day of a forecasted storm event (see definition) > 0.25 inches	V, F	No (except for application of pre-emergents)	No
After a storm event where water is leaching or running	V	No	No
Water is running off-site	V	No	No
Rising groundwater	V	No	No
Ground is saturated	V	No	No



## 6.0 Pollution Prevention and Spill Control

Irrigation canals, open trenches, surface waters, wetlands, designated 303(d) waterbodies, and groundwater sources should be noted and application shall be made to prevent contamination of these areas.

In the event that pesticides, fertilizers, and/or herbicides not intended for water application are inadvertently sprayed or spilled into the water sources listed above, the following steps are to be taken:

- a. Stop all pesticide applications and assess the situation.
- b. Prevent further contamination of water sources by using control measures such as storm drain inlet protection, absorbent materials, sandbags, or trenching.
- c. Mark the area where the spill or overspray occurred.
- d. Contact the environmental coordinator in your jurisdiction.
- e. Report the spill to the appropriate department for clean up.
- f. Contact governmental agency of reportable quantities.

## 7.0 Aquatic Pesticide Application

For control of pests and weeds in open water, storm drainage system, and flood control channel areas, only those materials specifically designed and registered for direct water application may be used. Directions on the labels must be followed as well as evaluating the application for the potential to harm the environment. Currently, the following is required prior to applying an aquatic pesticide.

- a. Coverage is obtained and compliance is achieved under Water Quality Order No. 2013-0002-DWQ – Aquatic Weed Control NPDES Permit and 2012-0003-DWQ (Vector Control NPDES Permit). For copy of the permits visit the State Water Resources Control Board web site at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/npdes/pesticides/](http://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/)
- b. Directions on the label are followed.
- c. The application site is evaluated prior to application for the potential of the pesticide to harm the environment.



## **8.0 Training and Documentation**

### **8.1 QAC and QAL Requirements**

Each Co-permittee will only use staff (including contracted businesses) that are under the direct supervision of a QAC/QAL holder. The QAC/QAL must possess a valid and current certification. The applicator is responsible for following any federal and state requirements as well as all label requirements and reviewing the Safety Data Sheets prior to use.

### **8.2 Training**

Each person who applies pesticides, fertilizers, or herbicides must be trained for the following:

- a. Appropriate application of the pesticide, fertilizer, or herbicide.
- b. Application laws and regulations
- c. Affects application may have on stormwater quality management
- d. The type of chemical and the immediate and long term hazards resulting from exposure
- e. The Safety Data Sheet information
- f. Safety procedures
- g. Emergency spill information
- h. Use of protective equipment
- i. Cleanup procedures
- j. Disposal procedures

## **9.0 Storage Facilities**

Co-permittees will adopt a purchase, storage, and disposal policy such that all pesticides, fertilizers, and herbicides are under the control of a QAC/QAL holder. Pesticide storage facilities shall meet regulatory requirements to prevent releases into the surrounding environment, waterbodies, or be exposed to stormwater and protect the safety of personnel working within such facilities. These pesticides storage facilities shall be locked/secured when not in use. All doors/entrances to the facilities shall be posted with appropriate warning signs (as specified in the California Department of Pesticide Regulations, see references). All signs shall be legible at a minimum distance of 25 feet from any direction.

Pesticide containers should not be stored on the floor or bare ground. No floor drains, which empty into storm drains, are permitted within the storage facility. All pesticides in a storage facility shall either be in the original container, or the service container. Secondary containment is recommended, but not mandatory. All containers will have a copy of the product label attached.

Open bags of pesticides must be enclosed in a secondary container (a closed heavy plastic bag, or can with a tight lid), to prevent exposure or spillage. If the original pesticide containers are metal and are in a state of rust or deterioration, properly labeled plastic or metal secondary containers shall be provided to prevent accidental leakage.



## 10.0 Decontamination/Disposal

Each Co-permittee will adopt a decontamination and disposal procedure that is managed by a QAC/QAL and meets the following minimum requirements. Liquids produced during the decontamination process shall be handled according to federal and state requirements and managed to reduce exposure to stormwater and from entering the storm drain system or surface waters.

### 10.1 Cleanup

Containers used to apply pesticides, fertilizers, or herbicides of 28 gallons or less must be triple rinsed after each use. Containers sent back to the manufacturer will follow manufacturer's recommendations or State and Federal guidelines for transporting. The triple-rinse procedures will consist of the following:

- a. Use  $\frac{1}{4}$  the container volume for containers less than 5 gallons and  $\frac{1}{5}$  the container volume for containers greater than 5 gallons.
- b. Place rinse medium in the container, securely close, agitate.
- c. Drain rinse solution into tank mix. Allow draining 30 seconds.
- d. Repeat steps b. and c. a minimum of two times; or
- e. Invert emptied container over a nozzle located in the opening of the mix tank that is capable of rinsing all inner surfaces of the container.

For further information, please visit the web site for the California Department of Pesticide Regulations listed in Section 10 of this SOP.

### 10.2 Disposal

Pesticide, fertilizer, and herbicide waste includes leftover chemicals and chemical container rinsates. All pesticide waste shall be treated as hazardous waste. Minimization of pesticide waste is a high priority for the pesticide user. If waste is stored before removal, it should be stored in an area that is not exposed to stormwater, stormwater runoff, or surface water.

### 10.3 Storage

Storage of pesticides, fertilizers, and herbicides should be in accordance with requirements as specified in the manufacturer's instructions or California Department of Pesticide Regulations (see References) if the instructions from the manufacturer are not provided.



## 11.0 References

### 11.1 Regulations

- a. Ventura County NPDES Permit CAS004002 (Order No. 2010-0108)  
[http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/stormwater/municipal/index.shtml](http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/index.shtml)
- b. Ventura County NPDES Permit CAS004002 (Order No. 09-0057)
- c. Title 3 CCR, Pesticide and Control Operations Section 6674, 6700-6900 (CalEPA)
- d. Uniform Fire Code, Pesticide Storage and Display
- e. 40 CFR Regulations of Pesticides sections 165.1-180 ([www.usepa.gov](http://www.usepa.gov))
- f. State Water Resources Control Board General NPDES Permit for the Discharge of Aquatic Pesticides for Aquatic Weed Control in Waters of the US; General Permit No. CAG990005 – Water Quality Order No. 2013-0002-DWQ
- g. State Water Resources Control Board General NPDES Permit for Discharges of Aquatic Pesticides to Surface Waters of the United States for Vector Control; General Permit No. CAG990004 – Water Quality Order No. 2012-0003-DWQ.

### 11.2 Web Sites

- a. California Department of Pesticide Regulation - [www.cdpr.ca.gov](http://www.cdpr.ca.gov)
- b. Weather tracking – [www.weather.gov](http://www.weather.gov)
- c. California Environmental Protection Agency (CalEPA) – [www.calepa.ca.gov](http://www.calepa.ca.gov)
- d. State Water Resources Control Board – Aquatic Pesticide Permits -  
[http://www.waterboards.ca.gov/water\\_issues/programs/npdes/pesticides/](http://www.waterboards.ca.gov/water_issues/programs/npdes/pesticides/)



**Attachment A**  
**Monthly Summary Pesticide Use Report**  
**Downloadable at**  
**<http://www.cdpr.ca.gov/docs/pur/forms/purforms.htm>**



## MONTHLY SUMMARY PESTICIDE USE REPORT

DPR-ENF-060 (REV. 4-12) PAGE 1 OF 2

## INSTRUCTIONS FOR COMPLETING THIS FORM ARE INDICATED BELOW AND ON THE REVERSE SIDE

OPERATOR (FIRM NAME)		ADDRESS		CITY	ZIP CODE		PHONE NUMBER
OPERATOR ID/PERMIT NUMBER	LICENSE NUMBER	COUNTY WHERE APPLIED	COUNTY NUMBER	MONTH/YEAR OF USE	TOTAL NUMBER OF APPLICATIONS		

## 1. Complete Columns A, B, C, and D for All Users

## 2. Complete Column E by using one of the following codes:

- Code 10 - Structural Pest Control.....includes any pest control work performed within or on buildings and other structures.  
Code 30 - Landscape Maintenance Pest Control.....includes any pest control work performed on landscape plantings around residences or other buildings, golf courses, parks, cemeteries, etc.  
Code 40 - Right-of-Way Pest Control.....includes any pest control work performed along roadsides, power lines, median strips, ditch banks, and similar sites.  
Code 50 - Public Health Pest Control.....includes any pest control work performed by or under contract with State or local public health or vector control agencies.  
Code 80 - Vertebrate Pest Control.....includes any vertebrate pest control work performed by public agencies or work under the supervision of the State or county agricultural commissioner.  
Code 91 - Commodity Fumigation (Nonfood/Nonfeed).....includes fumigation of nonfood/nonfeed commodities such as pallets, dunnage, furniture, burlap bags, etc.  
Code 100 - Regulatory Pest Control.....includes any pest control work performed by public employees or contractors in the control of regulated pests.

## 3. Complete Columns F and G, if use does not fit one of the above codes

A	B	C				D	E	F	G
MANUFACTURER AND NAME OF PRODUCT APPLIED	EPA/CALIFORNIA REGISTRATION NUMBER FROM LABEL INCLUDE ALPHA CODE	TOTAL PRODUCT USED (Check One Unit of Measure)	NUMBER OF APPLICATIONS	CODE	COMMODITY OR SITE TREATED	ACRES/UNITS TREATED			
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							
		<input type="checkbox"/> LB <input type="checkbox"/> OZ <input type="checkbox"/> PT <input type="checkbox"/> QT <input type="checkbox"/> GA							

REPORT PREPARED BY \_\_\_\_\_

DATE \_\_\_\_\_

Distribution: CAC - Two copies; Report preparer - One copy

Print Form

**GENERAL INFORMATION FOR COMPLETING THE MONTHLY SUMMARY PESTICIDE USE REPORT**  
(Page 2 of 2)

**Reporting Requirements**

Reporting of all pesticide applications including spray adjuvants and plant growth regulators, is required by:

1. Landscape maintenance gardener pest control businesses, agricultural pest control businesses performing residential work, and structural pest control businesses.
2. Public agencies, pest control businesses and property operators who apply pesticides for agricultural use other than for the production of an agricultural commodity. These uses include applications for the production of poultry, fish, and eplary. Pest control businesses must report uses for the production of livestock. Also, uses on golf courses, parks, rights-of-way, cemeteries, forests, ditches, fence lines, etc. must be reported.
3. Persons who use restricted materials for uses other than the production of an agricultural commodity.
4. Persons who use a pesticide for industrial post-harvest commodity treatments.
5. Persons who use a Ground Water Protection pesticide, listed in Title 3, California Code of Regulations, section 6800(b) for any outdoor, institutional or industrial use.

**Report Filing Deadlines**

Submit two (2) copies of this report to the county agricultural commissioner by the 10th of the month, following the month in which the work was performed. Reports may be hand-delivered or mailed, the postmark serving as the date of delivery. Retain a copy for your records.

For each month when no pest control work has been performed, licensed pest control businesses must submit a use report by the 10th day of the following month to the county agricultural commissioner in counties where they are registered. The use report must indicate that no pest control work was performed.

**SPECIFIC INSTRUCTIONS FOR COMPLETING THE FACE PAGE**

The operator/firm information should be filled out completely, including the address, ZIP code, and telephone number.

Identify the Operator Identification/Restricted Material Permit Number, if applicable.

Enter the name of the county where the pesticide(s) was applied.

Indicate the county number where the product(s) was applied. The county number is available from the county agricultural commissioner's office. A separate report must be filed for each county where pesticides were applied.

Enter the month and year in which the applications were made.

Enter the total number of applications (i.e., the total of column D below) made during the month.

In Column A, enter both the manufacturer and brand name of the product.

In Column B, enter the "EPA Registration Number" or "California Registration Number" that appears on the pesticide label, including alpha codes, if any (AA, ZA, ZB, etc.). Do not use the "EPA Establishment Number" (Est. No.).

In Column C, indicate the total amount of product used as formulated and packaged by the manufacturer. Do not report the total mixture after dilution. Check only one unit of measure. If necessary, decimals and fractions may be used.

In Column D, indicate the total number of applications for each pesticide used during the reporting month. Each separate site (home, apartment complex, building, right-of-way, grain silo, etc.) should be counted as one application. For tank mixes, each represented pesticide should be credited with one application.

In Column E, if the use of the product is structural, landscape, right-of-way, vertebrate, public health, commodity fumigation (nonfood/nonfeed) or regulatory, enter the appropriate code number. Leave Columns F and G blank.

In Column F, if use of the product is not included in one of the number coded categories that are identified in column E, such as food/feed commodity fumigations, seed treatment, noncrop fence-lines or ditch banks, etc., enter the commodity or site treated. Leave Column E blank.

Do not enter vertebrate pest control work in production areas such as orchards or other crop areas. This work should be reported on the Production Agriculture Monthly Pesticide Use Report.

In Column G, if use of the product is not included in one of the number-coded categories that are identified in Column E, enter the amount treated and the appropriate unit of measure (acres, pounds, square feet, tons, etc.). If you have a different measure, describe it fully and enter the amount treated. Leave Column E blank.

Enter the name of the person responsible for completing the information, and date the report. This could be a licensee, a manager, the person who applied the pesticide, a bookkeeper, etc.



BIOLOGICAL  
OPINION  
USFWS



## United States Department of the Interior

### U.S. FISH AND WILDLIFE SERVICE

Ecological Services  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003



IN REPLY REFER TO:  
2024-0100544 S7-001

September 10, 2024

Shea O'Keefe, Area 4 Biologist  
Natural Resources Conservation District  
430 G Street  
Davis, California 95616-4146

Subject: Biological Opinion on Flow Capacity Restoration within Coyote Creek, Ventura County, California.

Dear Shea O'Keefe:

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion based on our review of the Natural Resource Conservation Service's (NRCS) proposal to fund (proposed action) the Ventura County Public Works-Watershed Protection (County) to restore flow capacity within Coyote Creek (project), and its effects on the federally threatened California red-legged frog (*Rana draytonii*), the endangered least Bell's vireo (*Vireo pusillus bellii*), and southwestern willow flycatcher (*Empidonax traillii extimus*) in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.). We understand the project is eligible for funding under the U.S. Department of Agriculture, Natural Resources Conservation Service's Emergency Watershed Protection Program (DSR 06-24-23-5227-043). We received your May 31, 2024, request for formal consultation on that same day via electronic mail (email).

We have based this biological opinion on information that accompanied your May 31, 2024, request for consultation, including the biological assessment (NRCS 2024), a memorandum from NRCS dated August 23, 2024, amending the project description, and information in our files.

#### **Not Likely to Adversely Affect Conference Determination**

The NRCS' request for consultation also included the determination that the proposed action may affect but is not likely to adversely affect the southwestern pond turtle (*Actinemys pallida*), a species proposed for federal listing as threatened.

After reviewing the information provided, we concur with your determination that the proposed action may affect, but is not likely to adversely affect the southwestern pond turtle. Although the project area is within the range of the southwestern pond turtle it lacks key habitat characteristics required for use. The project area is a mix of heavily vegetated riparian and developed residential

properties, neither of which contain suitable basking habitat. The dense vegetation and thick understory within the project area create heavily shaded areas which are not suitable for nesting. The nearest southwestern pond turtle observations are 0.9 mile upstream of the project area below the Casitas Dam outflow. Some southwestern pond turtles could make downstream movements but are not likely to remain within the project area given the absence of basking habitat.

If the proposed action changes in any manner or if new information reveals the presence of listed species in the project area, you should contact our office immediately and suspend all project activities until the appropriate compliance with the Act is completed.

## BIOLOGICAL OPINION

### DESCRIPTION OF THE PROPOSED ACTION

The NRCS proposes to fund the County to re-excavate (sediment removal), grade, remove riparian vegetation (channel clearing) and revegetate with native vegetation, within and along a reach of Coyote Creek that would total approximately 3,300 linear feet. Coyote Creek is a tributary to the Ventura River, near the unincorporated area of Casitas Springs, Ventura County. The purpose of the proposed project is to restore drainage capacity and to reestablish a new thalweg that conveys flows to the confluence of the Ventura River. The proposed project would be a one-time event for a duration of 2 to 3 months.

The new channel cross section would have a 25-foot-wide bottom width, with 2:1 bank slopes on either side and would be excavated approximately 5 feet lower than the existing grade. The 2:1 channel side slopes would extend the work area an additional 10 feet on both sides. All the vegetation within the 45-foot-wide work area would be removed to allow grading. The total work impact area, which includes developed/disturbed areas, would be approximately 7.98 acres. Excavated sediment and debris would be hauled off site. The projected construction work window is September 10, 2024, through June 30, 2025. The area would be restored using willow plantings. The equipment that would be used includes an excavator, crawler dozer, loader, water truck, utility truck, dump truck, roll-off bins, skid steer, woodchipper, mechanical hand tools such as chainsaws or bladed weed whips for vegetation removal, and herbicide application equipment. The proposed project would restore channel dimensions to convey an approximately 25-year return interval storm, or about 1,386 cubic feet per second flows.

The two access routes would be created to access Coyote Creek for channel clearing, vegetation removal, and vegetation restoration. The access routes would temporarily disturb 0.22 acre of existing vegetation adjacent to Coyote Creek. The disturbed areas would be reseeded following construction.

Vegetation removal would be conducted in accordance with NRCS Practice Specification Code 326 – Clearing and Snagging. Code 326 describes work procedures consisting of clearing and disposing of woody growth and/or other obstructions from the designated area. Nonnative

vegetation would be treated with herbicide in accordance with the Ventura County Herbicide Application Protocol. The limits of the area to be cleared would be staked and flagged. Trees to be left standing would be designated by special markings. All trees, stumps, and brush within the perimeter of the channel would be cut as close to the ground as possible. Trees, brush, and other woody vegetation outside the channel may be left taller. Down trees, logs, drifts, boulders, debris, and other obstructions lying wholly or partly in the channel would be removed. All material would be disposed of in such a manner that it does not float away or reenter the channel.

Non-native vegetation would be treated with herbicide to prevent regrowth. A cut-and-daub method of applying herbicide would be used in treating giant reed (*Arundo donax*) and other non-native plants that may be present at the site. The cut-and-daub methods consist of cutting the target species at a maximum of 2 to 3 inches above the ground or water surface level and manually applying herbicide to the cut surface within one minute of cutting. If needed, foliar application of herbicide would be used to control cape ivy (*Delairea odorata*) or other non-native plants that require foliar application over the cut-and-daub application method. Foliar application would be conducted using backpack type sprayers using a solution of 5 percent glyphosate and an appropriate amount of non-toxic colorant and an aquatically approved non-ionic surfactant. Plants would be left to die in place.

Areas affected by the proposed project would be revegetated with willows cuttings. The cuttings would be planted along Coyote Creek in areas where there is a gap in the canopy from project activities. NRCS anticipates willows would be planted approximately every 50 feet on alternating sides of the creek bed. The willows would be harvested from the site and all harvesting would be completed under supervision of a biological monitor. Cuttings would ideally be harvested during the dormant season and will be held for a maximum of 2 weeks before planting.

NRCS requires that the channel retain the capacity for flow for 5 years beyond the initial channel shaping work, therefore some maintenance activities are required to ensure the creek functions and sediment does not build up. Coyote Creek will not become a flood control facility and it will not be routine maintenance, rather it is a requirement of the funding receipt to restore the project parameters for 5 years. Annual (summer season) evaluations of the channel on County owned properties will determine maintenance actions. Only the minimum work necessary to remove accumulated sediment and trim up established woody vegetation would be scheduled and executed in the fall season. For reaches of Coyote Creek that are privately owned will need to obtain separate maintenance regulatory permits to conduct maintenance. Fall maintenance would allow for winter flow capacity and spring regrowth for habitat benefits. Annual growth of herbaceous wetland vegetation, such as cattails, will be left in place, where feasible if they are not negatively impacting capacity. Only accumulated sediment that obstructs the flow would be removed via small equipment. A qualified biologist would conduct appropriate pre-work surveys and monitor work.

The County has proposed the following conservation measures that are incorporated into the proposed project description to avoid or minimize potential effects to the California red-legged

frog, least Bell's vireo, southwestern willow flycatcher, and other sensitive species potentially occurring within the project area:

#### General Conservation Measures

- 1) If any water diversion activities need to occur during the proposed project, the County and Contractors will follow the approved Water Diversion Guide.
- 2) All construction work will be conducted during daylight hours.
- 3) A qualified biological monitor will conduct a pre-work survey within five (5) days prior to the first workday and be on site during all work activities to protect wildlife.
- 4) A biological monitor will conduct daily sweeps for nesting birds and other wildlife within the areas to be cleared of vegetation in the morning, the same day that work will occur, before vegetation clearing activities start.
- 5) Prior to construction, an education program will be conducted for the cooperator and/or all construction employee(s) in reference to listed species potentially on site. At minimum, the program will consist of a brief presentation by a qualified biologist. The program will include: a description of the species and their habitat needs; any reports of occurrences in the project area; an explanation of the status of each listed species and their protection under the Act; and a list of measures being taken to reduce effects to the species during construction and implementation. Fact sheets conveying this information and color photographs of all listed species in the work area(s) will be prepared for distribution to the above-mentioned people and anyone else who may enter the project area. A list of education program attendees will be maintained by the County to be made available for review by Service upon request.
- 6) If an animal is observed within the work area or its immediate vicinity and believed to be a federally listed species, work will stop until the animal leaves the area of its own volition. The animal will not be hazed into leaving the area. If the animal does not leave of its own accord, the biological monitor will be contacted for further guidance. No wildlife species will be handled and/or removed from the project area by anyone except a qualified biologist.
- 7) Silt-laden water will be prevented from flowing downstream to the Ventura River.
- 8) All equipment will be kept in good working condition and free of leaks.
- 9) All equipment maintenance and refueling will be conducted within designated staging areas and will not be allowed within the creek channel.
- 10) Drip pans will be placed under all stationary equipment such as motors, pumps, generators, etc.
- 11) Spill containment materials must be on site or readily available for any equipment maintenance or refueling.
- 12) All maintenance crews will be trained in spill containment and response.
- 13) All spills will be cleaned up immediately and a report will be submitted to the Office of Spill Prevention and Response.
- 14) The project area will be revegetated using willow cuttings.
- 15) Herbicide treatment will comply with label requirements and Ventura County Herbicide Application Protocol.

- 16) All herbicide mixing, cleaning and maintenance of equipment and related work will be performed within approved staging areas and outside of the bed and banks of the stream channel.
- 17) An aquatically-approved colorant or marking dye, such as Blazon, or approved equivalent, will be mixed with all herbicide prior to application.
- 18) Applicators will apply herbicide in a careful manner to avoid herbicide runoff from vegetation to the maximum extent practical.
- 19) Applicators will not allow herbicide to contact either surface waters within or adjacent to work areas, or native vegetation extending over the creek.
- 20) Herbicide will be a glyphosate-based and aquatically-approved herbicide such as Aquamaster®, Environmental Protection Agency Registration No. 524-343, or approved equivalent.
- 21) All equipment must be cleaned with hot water to remove seeds, invasive species, and pathogens prior to delivery and work on site.
- 22) Cape ivy, giant reed, or other noxious plant species materials will not be transferred upstream or other places within the project area and will not be recycled as green waste. Cape ivy, giant reed, or other noxious plant species will be transported to a landfill for disposal as a destruction load.

#### California Red-legged Frog Conservation Measures

- 23) Surveys will be conducted according to Service protocols for the within all suitable aquatic and upland habitats within the project area.
- 24) If adults or non-larval juveniles are found during the surveys, the individual will be allowed to move out of the action area of its own.
- 25) A Service-approved biologist will survey the work site immediately prior to construction activities. If California red-legged frog adults, larvae, or eggs are found, the Service-approved biologist will determine if moving any of these life-stages is appropriate. In making this determination the Service-approved biologist will consider if an appropriate relocation site exists. The Service-approved biologist will be allowed sufficient time to move California red-legged frog from the work site before work activities begin.
- 26) Bare hands will be used to handle California red-legged frog. The Service-approved biologists will not use soaps, oils, creams, lotions, repellents, or solvents of any sort on their hands within 2 hours before and during periods when they are capturing and relocating individuals. To avoid transferring disease or pathogens from handling of the amphibians, Service-approved biologists will follow the Declining Amphibian Populations Task Force's "Code of Practice."
- 27) Only Service-approved biologists will capture, handle, and relocate California red-legged frog.
- 28) A Service-approved biologist will be present on site during all grading, dewatering, riparian or aquatic vegetation removal, in-stream construction activities, and relocation of California red-legged frog. After instruction of project personnel, relocation of California red-legged frog, and the activities listed above have been completed, the Service-approved biologist will designate a person to monitor on-site compliance. The Service-

- approved biologist will ensure that this individual has received environmental training as described in Conservation Measure number 5 above and is competent in the identification of California red-legged frog.
- 29) All burrows that provide upland habitat will be avoided to the maximum extent feasible. Areas with high concentrations of burrows will be flagged and avoided.
  - 30) Sediment removed during pond and/or stream restoration activities will not be placed where it can enter California red-legged frog breeding pools; nor will it pass into any other waters. Sediment will not be placed over areas with concentrated ground squirrel (*Otospermophilus beecheyi*) burrows.
  - 31) If a work site is to be temporarily dewatered by pumping, intakes will be completely screened with wire mesh not larger than 0.2 inch to prevent California red-legged frogs from entering the pump system.
  - 32) To the maximum extent practicable, no construction activities will occur during rain events or within 24 hours following a rain event. Prior to construction activities resuming, a qualified biologist will inspect the project area and all equipment/materials for the presence of California red-legged frog. The animals will be allowed to move away from the project area of their own volition or moved by a qualified biological monitor.
  - 33) Plastic monofilament netting (erosion control matting), loosely woven netting, or similar material in any form will not be used at the project area because California red-legged frog can become entangled and trapped in them. Any such material found on site will be immediately removed by the biological monitor, construction personnel, or the applicant. Materials utilizing fixed weaves (strands cannot move), polypropylene, polymer or other synthetic materials will not be used.

#### Southwestern Willow Flycatcher Conservation Measures

- 34) The project area will be surveyed according to Service protocol for this subspecies, by an approved biologist possessing all required state and federal survey permits.
- 35) If southwestern willow flycatcher are detected within the project area the Service will be notified and a 500-foot avoidance buffer will be established around the nest until the young have fledged or it is determined that the nest has failed.

#### Least Bell's Vireo Conservation Measures

- 36) The project area will be surveyed according to Service guidelines for this subspecies.
- 37) While a 10(a)(1)(A) recovery permit is not required to conduct these surveys, the surveys will be conducted by an experienced, qualified biologist familiar with the songs, whisper songs, calls, scolds, and plumage characteristics of adult and juvenile vireos. If needed the surveyor will provide justification for number 39, below.
- 38) Surveys will be conducted 10 days apart per the Service survey guidelines, if it will not be possible to conduct eight surveys before the project activities start date NRCS will provide justification for the accuracy of negative findings to the Service prior to project activity initiation.

- 39) If active least Bell's vireo nests are detected, the Service will be notified, and a 500-foot avoidance buffer will be established around the nest until the young have fledged or it is determined that the nest has failed.

Furthermore, a private residential property (the Ryder Property), which is 1.5 acres, along Coyote Creek will be bought out and be protected from future development. The Ryder Property buyout will include the removal of a small bridge, a house, driveway, other residential structures, and the installation of a rock-lined water way. The Ryder Property buyout construction activities may occur year-round and is not anticipated to be completed in the construction work window (September 10, 2024 – June 30, 2025). An estimated area of 0.4 acre would be temporarily disturbed by the construction actions.

## ANALYTICAL FRAMEWORK FOR THE JEOPARDY AND ADVERSE MODIFICATION DETERMINATIONS

### Jeopardy Determination

Section 7(a)(2) of the Act requires that Federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species. "Jeopardize the continued existence of" means "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species" (50 CFR 402.02).

The jeopardy analysis in this biological opinion relies on four components: (1) the Status of the Species, which describes the current rangewide condition of the California red-legged frog, least Bell's vireo, and southwestern willow flycatcher the factors responsible for that condition, and their survival and recovery needs; (2) the Environmental Baseline, which analyzes the condition of the California red-legged frog, least Bell's vireo, and southwestern willow flycatcher in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the California red-legged frog, least Bell's vireo, and southwestern willow flycatcher; (3) the Effects of the Action, which determines all consequences to the California red-legged frog, least Bell's vireo, and southwestern willow flycatcher caused by the proposed action that are reasonably certain to occur in the action area; and (4) the Cumulative Effects, which evaluates the effects of future, non-Federal activities, that are reasonably certain to occur in the action area, on the California red-legged frog, least Bell's vireo, and southwestern willow flycatcher.

In accordance with policy and regulation, the jeopardy determination is made by evaluating the effects of the proposed Federal action in the context of the current status of the California red-legged frog, least Bell's vireo, and southwestern willow flycatcher, taking into account any cumulative effects, to determine if implementation of the proposed action is likely to reduce appreciably the likelihood of both the survival and recovery of the California red-legged frog,

least Bell's vireo, and southwestern willow flycatcher in the wild by reducing the reproduction, numbers, and distribution of these species.

## STATUS OF THE SPECIES

### California Red-legged Frog

#### Legal Status

The California red-legged frog was federally listed as threatened on May 23, 1996 (Service 1996). Revised critical habitat for the California red-legged frog was designated on March 17, 2010 (Service 2010). The Service issued a recovery plan for the species on May 28, 2002 (Service 2002, entire). A 5-year review of the status of the California red-legged frog was completed in December 2022 (Service 2022, entire).

#### Natural History

The California red-legged frog uses a variety of habitat types, including various aquatic systems, riparian, and upland habitats. They have been found at elevations ranging from sea level to approximately 5,000 feet. California red-legged frogs use the environment in a variety of ways, and in many cases, they may complete their entire life cycle in a particular area without using other components (i.e., a pond is suitable for each life stage and use of upland habitat or a riparian corridor is not necessary). Populations appear to persist where a mosaic of habitat elements exists, embedded within a matrix of dispersal habitat. Adults are often associated with dense, shrubby riparian or emergent vegetation and areas with deep (greater than 1.6 feet) still or slow-moving water; the largest summer densities of California red-legged frogs are associated with deep-water pools with dense stands of overhanging willows (*Salix* spp.) and an intermixed fringe of cattails (*Typha latifolia*) (Hayes and Jennings 1988, p. 147). Hayes and Tennant found juveniles to seek prey diurnally and nocturnally, whereas adults were largely nocturnal (Hayes and Tennant 1985, p. 604).

California red-legged frogs breed in aquatic habitats; larvae, juveniles, and adult frogs have been collected from streams, creeks, ponds, marshes, deep pools and backwaters within streams and creeks, dune ponds, lagoons, and estuaries. They frequently breed in artificial impoundments such as stock ponds, given the proper management of hydro-period, pond structure, vegetative cover, and control of exotic predators. While frogs successfully breed in streams and riparian systems, high spring flows and cold temperatures in streams often make these sites risky egg and tadpole environments. An important factor influencing the suitability of aquatic breeding sites is the general lack of introduced aquatic predators. Accessibility to sheltering habitat is essential for the survival of California red-legged frogs within a watershed and can be a factor limiting population numbers and distribution.

California red-legged frogs are “irruptive” breeders where their breeding capacity is highly dependent on local environmental conditions, specifically the availability of cool water for egg

deposition and larval maturation (Jennings and Hayes 1994, p. 62). California red-legged frogs breed from November to May and breeding activity typically begins earlier at southern coastal than northern coastal localities (Storer 1925, p. 2; Alvarez et al. 2013, pp. 547-548). Breeding may start as late as March or April in Sierra Nevada localities, due to low temperatures at these sites in January and February (Tatarian 2008, p. 16). Breeding in southern California localities may start as late as April, as exemplified in Matilija Canyon following the 2017 Thomas Fire (P. Lieske, pers. comm., 2021). High water flows in the winter and spring also can delay breeding in streams and rivers (Fellers et al. 2001, p. 157). Female California red-legged frogs lay only one egg mass in a breeding year and each egg mass contains between 300 to 4,000 eggs (Storer 1925, p. 240). California red-legged frogs typically deposit egg masses in relatively shallow water (approximately 1.6 to 2 feet deep) on emergent vegetation within 4 feet of shore (Storer 1925, p. 239; Jennings and Hayes 1994, p. 64). However, the species can deposit eggs on a wide variety of substrates including boulders and cobbled substrate and submerged tips of overhanging branches, and egg masses have been documented 39 feet from shore and in water up to 10.5 feet deep (Alvarez et al. 2013, pp. 544-545; Wilcox et al. 2017, p. 68). California red-legged frog tadpoles hatch from egg masses after 6 to 14 days (Storer 1925, p. 241). Tadpole development and growth rates are variable and likely temperature dependent (Fellers 2005, pp. 552-554). Occasionally, tadpoles may overwinter and then metamorphose the following spring, a phenomenon so far observed in Santa Clara, Marin, Contra Costa, and San Luis Obispo Counties (Fellers et al. 2001, entire). The juvenile California red-legged frog life stage is defined as the time after an individual undergoes metamorphosis (when they lose their tails and become small froglets) which typically occurs 4 to 5 months after hatching and it spans to when an individual is able to breed (Storer 1925, p. 241; Wright and Wright 1949, p. 422). On average, the juvenile life stage is from about 5 months of age to 3 years in California red-legged frogs. Immediately after metamorphosis, juveniles shelter near their natal pond. However, some juveniles may disperse in the fall to nearby moist uplands or different aquatic habitat to avoid predation by larger, older frogs. Hayes and Tennant (1985, p. 604) found juveniles to seek prey diurnally and nocturnally, whereas adults were largely nocturnal. During periods of wet weather, starting with the first rains of fall, some individual California red-legged frogs may make long-distance overland excursions through upland habitats to reach breeding sites. In Santa Cruz County, Bulger et al. (2003, p. 90) found marked California red-legged frogs moving up to 1.74 miles through upland habitats, via point-to-point, straight-line migrations without regard to topography, rather than following riparian corridors. Most of these overland movements occurred at night and took up to 2 months. Similarly, in San Luis Obispo County, Rathbun and Schneider (2001, p. 1302) documented the movement of a male California red-legged frog between two ponds that were 1.78 miles apart in less than 32 days; however, most California red-legged frogs in the Bulger et al. (2003, p. 93) study were non-migrating frogs and always remained within 426 feet of their aquatic site of residence (half of the frogs always stayed within 82 feet of water). Rathbun et al. (1993, p. 15) radio-tracked three California red-legged frogs near the coast in San Luis Obispo County at various times between July and January; these frogs also stayed close to water and never strayed more than 85 feet into upland vegetation. Scott (2002, p. 2) radio-tracked nine California red-legged frogs in East Las Virgenes Creek in

Ventura County from January to June 2001, which remained relatively sedentary as well; the longest within-channel movement was 280 feet and the farthest movement away from the stream was 30 feet.

After breeding, California red-legged frogs often disperse from their breeding habitat to forage and seek suitable dry-season habitat. Cover within dry-season aquatic habitat could include boulders, downed trees, and logs; agricultural features such as drains, watering troughs, spring boxes, abandoned sheds, or hayricks, and industrial debris. California red-legged frogs use small mammal burrows and moist leaf litter (Jennings and Hayes 1994, p. 64; Rathbun and Schneider 2001, p. 15); incised stream channels with portions narrower and deeper than 18 inches may also provide habitat (Service 2002, p. 14). This type of dispersal and habitat use, however, is not observed in all California red-legged frogs and is most likely dependent on the year-to-year variations in climate and habitat suitability and varying requisites per life stage.

Although the presence of California red-legged frogs is correlated with still water deeper than approximately 1.6 feet, riparian shrubbery, and emergent vegetation (Jennings and Hayes 1994, p. 64), California red-legged frogs appear to be absent from numerous locations in its historical range where these elements are well represented. The cause of local extirpations does not appear to be restricted solely to loss of aquatic habitat. The most likely causes of local extirpation are thought to be changes in faunal composition of aquatic ecosystems (i.e., the introduction of invasive predators and competitors) and landscape-scale disturbances that disrupt California red-legged frog population processes, such as dispersal and colonization. The introduction of contaminants or changes in water temperature may also play a role in local extirpations. These changes may also promote the spread of predators, competitors, invasive plants, parasites, and diseases.

### Rangewide Status

The historical range of the California red-legged frog extended coastally from southern Mendocino County and inland from the vicinity of Redding, California, southward to northwestern Baja California, Mexico (Storer 1925, p. 235; Jennings and Hayes 1985, p. 95; Shaffer et al. 2004, p. 2673). The California red-legged frog has sustained a 70 percent reduction in its geographic range because of several factors acting singly or in combination (Davidson et al. 2001, p. 465).

Over-harvesting, habitat loss, non-native species introduction, and urban encroachment are the primary factors that have negatively affected the California red-legged frog throughout its range (Jennings and Hayes 1985, pp. 99-100; Hayes and Jennings 1988, p. 152). Habitat loss and degradation, combined with over-exploitation and introduction of exotic predators, were important factors in the decline of the California red-legged frog in the early to mid-1900s. Continuing threats to the California red-legged frog include direct habitat loss due to stream alteration and loss of aquatic habitat, indirect effects of expanding urbanization, competition or predation from non-native species including the bullfrog (*Lithobates catesbeiana*), catfish (*Ictalurus* spp.), bass (*Micropterus* spp.), mosquito fish (*Gambusia affinis*), red swamp crayfish

(*Procambarus clarkii*), and signal crayfish (*Pacifastacus leniusculus*). Chytrid fungus (*Batrachochytrium dendrobatidis*) is a waterborne fungus that can decimate amphibian populations and is considered a threat to California red-legged frog populations.

### Critical Habitat

The Service first designated critical habitat for the California red-legged frog on March 13, 2001 (Service 2001, entire). We revised the designation in a final rule published on March 17, 2010 (Service 2010, entire). The final rule describes 48 separate units, encompassing approximately 1,636,609 acres, in 27 counties in California. The designation includes lands supporting those features necessary for the conservation of the California red-legged frog. In addition, the Service finalized a special rule pursuant to section 4(d) of the Act, associated with final listing of the California red-legged frog as threatened, for existing routine ranching activities (Service 2006a, entire). A detailed discussion of the history and methods used in developing critical habitat can be found in the final rule (Service 2010, entire).

In accordance with section 3(5)(A)(i) of the Act and Federal regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we identified the physical or biological features (PBFs) essential to the conservation of the species which may require special management considerations or protection. Because not all life history functions require all the PBFs, not all areas designated as critical habitat will contain all of the PBFs. Based on our current knowledge of the life history, biology, and ecology of the California red-legged frog, we determined the California red-legged frog's PBFs to consist of: (1) aquatic breeding habitat; (2) aquatic non-breeding habitat; (3) upland habitat, and (4) dispersal habitat. Detailed descriptions of these PBFs can be found in the final rule (Service 2010). The following is a brief summary of the PBFs:

1. Aquatic breeding habitat consists of standing bodies of fresh water (with salinities less than 4.5 parts per thousand), including natural and manmade (stock) ponds, slow moving streams or pools within streams and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 20 weeks in all but the driest of years.
2. Aquatic non-breeding habitat consists of the freshwater habitats as described for aquatic breeding habitat but which may or may not hold water long enough for the species to complete the aquatic portion of its lifecycle but which provide for shelter, foraging, predator avoidance, and aquatic dispersal habitat of juvenile and adult California red-legged frogs.
3. Upland habitat consists of upland areas adjacent to or surrounding breeding and non-breeding aquatic and riparian habitat up to a distance of 1 mile in most cases (i.e., depending on surrounding landscape and dispersal barriers), including various vegetation types such as grassland, woodland, forest, wetland, or riparian areas that provide shelter, forage, and predator avoidance for California red-legged frogs. Upland habitat should

contain structural features such as boulders, rocks and organic debris (e.g., downed trees, logs), small mammal burrows, or moist leaf litter.

4. Dispersal habitat consists of accessible upland or riparian habitat within and between occupied or previously occupied sites that are located within 1 mile of each other, and that support movement between such sites. Dispersal habitat includes various natural habitats, and altered habitats such as agricultural fields that do not contain barriers (e.g., heavily traveled roads without bridges or culverts) to dispersal. Dispersal habitat does not include moderate- to high-density urban or industrial developments with large expanses of asphalt or concrete, nor does it include large lakes or reservoirs over 50 acres in size, or other areas that do not contain those features identified in PBFs 1, 2, or 3 as essential to the conservation of the species.

### Recovery

The 2002 final recovery plan for the California red-legged frog (Service 2002, entire) states that the goal of recovery efforts is to reduce threats and improve the population status of the California red-legged frog sufficiently to warrant delisting. The recovery plan describes a strategy for delisting, which includes: (1) protecting known populations and reestablishing historical populations; (2) protecting suitable habitat, corridors, and core areas; (3) developing and implementing management plans for preserved habitat, occupied watersheds, and core areas; (4) developing land use guidelines; (5) gathering biological and ecological data necessary for conservation of the species; (6) monitoring existing populations and conducting surveys for new populations; and (7) establishing an outreach program. The California red-legged frog will be considered for delisting when:

1. Suitable habitats within all core areas are protected and/or managed for California red-legged frogs in perpetuity, and the ecological integrity of these areas is not threatened by adverse anthropogenic habitat modification (including indirect effects of upstream/downstream land uses).
2. Existing populations throughout the range are stable (i.e., reproductive rates allow for long-term viability without human intervention). Population status will be documented through establishment and implementation of a scientifically acceptable population monitoring program for at least a 15-year period, which is approximately 4 to 5 generations of the California red-legged frog. This 15-year period should coincide with an average precipitation cycle.
3. Populations are geographically distributed in a manner that allows for the continued existence of viable metapopulations despite fluctuations in the status of individual populations (i.e., when populations are stable or increasing at each core area).

4. The species is successfully reestablished in portions of its historical range such that at least one reestablished population is stable/increasing at each core area where California red-legged frog are currently absent.
5. The amount of additional habitat needed for population connectivity, recolonization, and dispersal has been determined, protected, and managed for California red-legged frogs.

The recovery plan identifies eight recovery units based on the assumption that various regional areas of the species' range are essential to its survival and recovery. The recovery status of the California red-legged frog is considered within the smaller scale of recovery units as opposed to the overall range. These recovery units correspond to major watershed boundaries as defined by U.S. Geological Survey hydrologic units and the limits of the range of the California red-legged frog. The goal of the recovery plan is to protect the long-term viability of all extant populations within each recovery unit.

Within each recovery unit, core areas have been delineated and represent contiguous areas of moderate to high California red-legged frog densities that are relatively free of exotic species such as bullfrogs. The goal of designating core areas is to protect metapopulations that combined with suitable dispersal habitat, will support long-term viability within existing populations. This management strategy allows for the recolonization of habitat within and adjacent to core areas that are naturally subjected to periodic localized extinctions, thus assuring the long-term survival and recovery of the California red-legged frog.

## **Least Bell's Vireo**

### Legal Status

The Service listed the least Bell's vireo as endangered on May 2, 1986 (Service 1986, entire). The Service designated critical habitat for the least Bell's vireo on February 2, 1994, (Service 1994, entire) and completed a draft recovery plan in March 1998 (Service 1998, entire). We completed a 5-Year Review of the least Bell's vireo's status in September 2006 (Service 2006b, entire).

### Natural History

Least Bell's vireos are obligate riparian breeders, typically inhabiting structurally diverse woodlands along watercourses that feature dense cover within 3 to 6 feet off the ground and a dense, stratified canopy (Salata 1983, pp. 35-36; Gray and Greaves 1984, p. 609; Service 1998, p. 10). Important plant species in least Bell's vireo habitat include mature arroyo willows (*Salix lasiolepis*) and black willows (*S. gooddingii*) and occasional cottonwoods (*Populus* spp.), western sycamore (*Populus fremontii*), or coast live oak (*Quercus agrifolia*). The understory within this riparian habitat is typically dominated by mulefat (*Baccharis salicifolia*), California wild rose (*Rosa californica*), poison oak (*Toxicodendron diversiloba*), sandbar willow (*Salix hindsiana*), young individuals of other willow species, and several perennial species (Service

1998, pp. 10-11). Least Bell's vireos primarily forage and nest in riparian habitat, but they may also use adjoining upland scrub habitat (Salata 1983, p. 54).

Vegetation structure more than the age of the vegetation appears to be the important determinant of least Bell's vireo site use; however, early successional riparian vegetation typically supports the dense shrub cover required for nesting and a structurally diverse canopy for foraging (Service 1998, p. 10). Ecological processes that contribute to the formation of early successional riparian habitat include channel scour and deposition associated with periodic storm events. As riparian vegetation matures, the tall stands tend to shade out the shrub layer, making the sites less suitable for least Bell's vireo nesting. In addition, least Bell's vireo nests tend to occur in openings and along the riparian edge, where exposure to sunlight allows the development of shrubs (Service 1998, p. 10).

Least Bell's vireos primarily feed on invertebrates, especially lepidopteran (butterfly and moth) larvae, within willow stands or associated riparian vegetation (Miner 1989, p. 47). They occasionally forage in upland vegetation such as coastal sage scrub, chaparral, and oak woodlands, although foraging in these other habitats usually occurs within 100 feet of the edge of riparian vegetation (Salata 1983, p. 54; Gray and Greaves 1984, p. 608). The subspecies' feeding largely consists of gleaning prey from leaves or woody surfaces while perched or hovering and, less frequently, by capturing prey in aerial pursuit (Salata 1983, p. 54; Miner 1989, p. 6).

Least Bell's vireos generally arrive in southern California breeding areas by mid-March to early April, with males arriving before females and older birds arriving before first-year breeders (Service 1998, p. 14). Individuals show site tenacity, typically returning to established breeding territories year after year (Greaves and Labinger 1997, p. 21; Salata 1983, p. 64). They generally remain on the breeding grounds until late September, although some post-breeding migration may begin as early as late July (Service 1998, p. 14). Male least Bell's vireos establish and defend breeding territories through singing and physically chasing intruders (Barlow 1962, pp. 258-266; Service 1998, p. 14). Their territories typically range in size from 0.5 to 4.5 acres, although a few as large as 7.5 acres have been recorded (Service 1998, p. 14). Areas that contain relatively high proportions of degraded habitat are likely to have lower productivity (hatching success) than areas that contain high quality riparian woodland.

Least Bell's vireos begin building their nests a few days after pair formation, with the female selecting the nest site and both sexes constructing the nest (Barlow 1962, p. 274; Service 1998, p. 15). They typically suspend their nests in forked branches within 3 feet above the ground (Service 1998, p. 15). Least Bell's vireos predominantly nest in willows (*Salix* spp.) and mulefat but will nest in a large variety of native and non-native plant species. Typically, the female lays three to four eggs on successive days shortly after nest construction (Service 1998, p. 16). Both parents incubate the eggs for about 14 days with the young remaining in the nest for another 10 to 12 days (Nolan 1960, pp. 232-235; Barlow 1962, pp. 280, 287). Each nest appears to be used only once with new nests constructed for each nesting attempt (Greaves 1987, p. 51). Least

Bell's vireos may attempt up to five nests within a breeding season, but they are typically limited to one or two successful nests within a given breeding season (Service 1998, p. 16).

Multiple long-term monitoring studies indicate that between 71 and 91 percent of nests successfully produce fledglings, although on average only 1.1 to 2.4 chicks fledge per nest (Service 1998, p. 18). Although least Bell's vireo nests appear to be more accessible to terrestrial predators because of their relatively low placement (Franzreb 1989, p. 8), California scrub-jays (*Aphelocoma californica*) account for most documented depredation events (Peterson et al. 2004, pp. 92-93).

The activities of jays and other avian predators may have favored relatively low nest placement, as reflected in the least Bell's vireo's current nest site selection. Predation rates on least Bell's vireo nests can exceed 60 percent of the nests in a given area within a year (Kus 1999, p. 164), but typical nest predation rates average around 30 percent (Franzreb 1989, pp. 8-9).

Some individual least Bell's vireos have been documented to live up to 7 years (Service 1998, p. 20), but the average lifespan for this subspecies is likely substantially lower. Greaves and Labinger (1997) and the Service (1998, p. 20) have estimated first-year survivorship to average approximately 25 percent. The annual survivorship of least Bell's vireos in subsequent years is estimated to be about 47 percent and is slightly lower for females than males, presumably due to the higher energetic costs of egg production (Service 1998, pp. 20-21).

Banding records indicate that while most first-year breeding least Bell's vireos return to their natal drainage after winter migration, some disperse considerable distances to other breeding locations (Greaves and Labinger 1997, p. 20; Service 1998, p. 21). For example, several least Bell's vireos banded as nestlings in San Diego County have been re-sighted as breeding adults in Ventura County, and the opposite movement from Ventura to San Diego has also been observed (Greaves and Labinger 1997, p. 20).

### Rangewide Status

The least Bell's vireo historically occupied willow riparian habitats from Tehama County in northern California, southward to northwestern Baja California, Mexico, and as far east as Owens Valley, Death Valley, and the Mojave River (Grinnell and Miller 1944, pp. 384-385; Service 1998, p. 7). Although originally considered to be abundant locally, regional declines of this subspecies were noticeable by the 1940s (Grinnell and Miller 1944, p. 384), and the least Bell's vireo was believed to have been extirpated from California's Central Valley by the early 1980s (Franzreb 1989, p. 14). At the time of the listing in 1986, more than 99 percent of the remaining least Bell's vireos were concentrated in southern California (Santa Barbara County and southward), with San Diego County containing 77 percent of the population (Service 1986, appendix A).

The least Bell's vireo population in the United States increased 10-fold, from 291 to 2,968 known territories, between 1986 and 2005 (Service 2006b, p. 6). Population growth was the

greatest in San Diego and Riverside counties, with lesser but significant increases in Orange, Ventura, San Bernardino, and Los Angeles counties. The largest concentrations of least Bell's vireo were located in San Diego County along the Santa Margarita River on Marine Corps Base Camp Pendleton and in Riverside County at the Prado flood control basin on the Santa Ana River (Service 2006b, p. 7). Based on a composite of survey information collected between 2001 and 2005, 54 percent of the population was estimated to occur in San Diego County, 30 percent occurred in Riverside County, and the remaining vireo territories were scattered throughout Orange (6 percent), San Bernardino (3 percent), Ventura (4 percent), and Los Angeles counties (2 percent) (Service 2006b, p. 7). Less than one percent of the documented least Bell's vireo territories occurred in Santa Barbara, Inyo, and Stanislaus counties (Service 2006b, p. 7). Thus, despite a significant increase in overall population numbers and a slight shift northward in the subspecies' distribution, the least Bell's vireo continues to primarily be restricted to the southern portion of its historical range.

More recently, the U.S. Geological Survey (USGS) presented population trends for least Bell's vireo between 2003 and 2014 (Kus et al. 2015). The trend data is difficult to interpret with certainty due to differences in survey effort and survey sites each year. In addition, the data likely underestimates the total population because many smaller sites lack consistent survey efforts. Nevertheless, the least Bell's vireo population appears to have increased steadily up until 2010 and has declined slightly since that time (i.e., 3,280 territorial males were reported in 2010 and 2,477 territorial males were reported in 2014). The population remains above what USGS reported between 2003 and 2007.

The 1986 listing rule identified brood parasitism by brown-headed cowbirds (*Molothrus ater*) as a substantial threat to the least Bell's vireo, and it remains the primary threat to least Bell's vireo recovery (Service 2006b, p. 19). Cowbird trapping has proven to be an effective management technique for recovering vireo populations in areas where it is implemented; however, Kus and Whitfield (2005, p. 24) argue that trapping programs may not be the best way to achieve long-term recovery of the least Bell's vireo because it relies on continued human intervention. Nevertheless, an effective alternative to cowbird trapping has not yet been identified. Therefore, additional research is needed to identify the best way to manage this threat over the long term (Service 2006b, p. 19).

At the time of the listing, the Service identified loss of habitat due to agricultural practices, urbanization, and exotic plant invasion as a major threat to least Bell's vireo populations. The destruction and modification of riparian habitat within the subspecies' current range has been curtailed significantly since the least Bell's vireo was listed, primarily due to protections provided by its listing in 1986 along with other Federal and State regulations that protect wetlands. Agriculture and grazing continue to threaten riparian habitat within the larger historical range of the least Bell's vireo, particularly the Salinas, San Joaquin, and Sacramento valleys (Service 1998, pp. 62-64); however, urbanization has displaced former agriculture and grazing operations in many areas within southern California. Occupied least Bell's vireo habitat that is adjacent to highly urbanized areas or within major river systems continues to be impacted by

flood control and water impoundment projects and may be subject to ongoing and future habitat loss or degradation (Service 2006b, p. 9).

Giant reed (*Arundo donax*) is a persistent threat throughout much of the least Bell's vireo's range because it displaces native vegetation, reducing the quality of riparian habitat for the least Bell's vireo (Service 1998, p. 74). Within the past decade, control of giant reed and other exotic plants is being conducted systematically in watersheds throughout the least Bell's vireo's range (Service 2006b, p. 11). In general, giant reed removal has been effective at restoring least Bell's vireo habitat but will require continued annual efforts to achieve local eradications and address new invasions. Although control of giant reed has made great progress since the original listing of the least Bell's vireo, invasions by other exotic plants [e.g., *Tamarix* species, perennial pepperweed (*Lepidium latifolium*)] continue to threaten existing riparian habitat.

Within the past few years, a new threat has emerged that has the potential to significantly impact least Bell's vireo nesting throughout its range. A disease complex involving two species of ambrosia beetles, the polyphagous shot hole borer (*Euwallacea* sp. 1) and Kurushio shot hole borer (*Euwallacea* sp. 5), a mix of associated fungi (see Lynch et al. 2016, p. 313), and other pathogens is causing widespread damage to trees in riparian ecosystems throughout southern California (Eskalen et al. 2013, p. 950). These shot hole borers create galleries in trees and inoculate the galleries with fungal spores. *Fusarium* sp. damaging the trees, and the open galleries make the trees vulnerable to attack from other pathogens that may be even more damaging.

The combination of structural damage from the galleries and tissue damage from the pathogens causes limbs to break and trees to die. For example, shot hole borers already infest occupied least Bell's vireo habitat in the Tijuana River (Recovery Unit 1), and an estimated 140,000 trees (35 percent of trees) showed extensive damage from the disease complex (Boland 2016, p. 8). Willow species are particularly susceptible to damage from the infestation. Preliminary reports suggest that the Prado Basin (Recovery Unit 7) and the San Luis Rey River (Recovery Unit 5) also have substantial infestations. Shot hole borers and their associated pathogens are also known to infest the Sweetwater River (Recovery Unit 3) and San Diego Creek (Recovery Unit 8).

No systematic, regional surveys for shot hole borers have been conducted, and it is likely that additional least Bell's vireo habitat is infested. Because least Bell's vireos require structure associated with willows and similar species, we anticipate that least Bell's vireo breeding success will decline in infested habitats. It is too early to determine how this significant new threat will affect the overall status of the subspecies, but the Service is closely monitoring it. Significant mortality of mature trees related to this threat may alter least Bell's vireo prey availability, increase exposure to predation (especially for least Bell's vireo nests), and affect hydrogeomorphic processes (e.g., flooding, alluvial deposition) important for maintaining healthy riparian woodlands that least Bell's vireos use for feeding, sheltering, and breeding.

Several large, regional habitat conservation plans in southern California have addressed the effects of urban development on the least Bell's vireo. We expect these plans to provide long-

term protection of core occurrences of least Bell's vireos in western Riverside, Orange, and San Diego counties. In addition, compliance-driven and voluntary riparian restoration activities throughout the subspecies' historical range may have contributed to an increase in riparian habitat since the listing of the least Bell's vireo (Service 2006b, p. 12).

### Recovery

The Service published a draft recovery plan for the least Bell's vireo in 1998 (Service 1998), but the plan was never finalized. Subsequently, we prepared a 5-year status review for the subspecies (Service 2006b, entire) that examined the recovery criteria in that draft plan and concluded, "Due to new information regarding the subspecies and an improved understanding of ongoing recovery actions to reduce threats, the recovery goals and strategies should be modified and refined." The 5-year status review (Service 2006b, p. 20) provided a set of recommendations for a future recovery plan that included:

1. Complete a functional recovery plan for the vireo with realistic, objectively based recovery goals.
2. Provide funding and technical support for further studies investigating continuing threats to the vireo from cowbird parasitism, exotic plant invasion of riparian habitats, and potentially elevated predation pressures due to habitat fragmentation or presence of exotic predators (i.e., domestic cats and Argentine ants).
3. Complete an assessment or support other efforts (such as the RHJV effort) to assess the amount and distribution of riparian habitat in California including:
  - a. Establishment of baseline values for comparison to past and future estimates, including an assessment of various riparian habitat subtypes.
  - b. An evaluation of changes in distribution and connectivity of riparian habitat at different stream-order levels (i.e., primary, secondary, tertiary, etc.).
  - c. An evaluation of the amount of riparian habitat restoration attempted and successfully completed since the listing, including restoration not driven by regulatory compliance.
4. Develop and implement:
  - a. A systematic survey program to locate vireo re-colonization of the Salinas, San Joaquin, and Sacramento Valleys so that appropriate management can be developed and implemented.
  - b. Systematic survey programs for watersheds in southern California that are no longer regularly surveyed within a given 5-year period (e.g., Dulzura Creek/Jamul

Creek/Otay River, San Diego River, San Dieguito River/Santa Ysabel Creek, San Gabriel River, etc.). It is possible that these systematic surveys may need to rely on volunteer efforts organized and supported by the Service.

Until a final recovery plan for the least Bell's vireo is developed, we rely on the most up-to-date information for discussing recovery in our biological opinions. In the 5-Year Review, we recommended downlisting the least Bell's vireo from endangered status to threatened because of an increase in population size since its listing in 1986, expansion of locations with breeding least Bell's vireo throughout southern California, and conservation and management of suitable breeding habitat throughout its range. The Service has not published a rule downlisting the subspecies, so the least Bell's vireo remains listed as endangered as of this writing. The ideas provided in the 5-year status review and cited above are currently the best information we have on which to base our analysis.

### Critical Habitat

The Service designated critical habitat for the least Bell's vireo on February 2, 1994 (Service 1994, entire). In determining the areas we designated, we considered the physical and biological features (PBFs) essential to the conservation of the subspecies and that require special management consideration (as defined at 50 CFR 424.12). The final rule describes these PBFs as riparian woodland vegetation that generally contains both canopy and shrub layers and includes some associated upland habitats (Service 1994, entire).

The final rule also identifies actions that may affect critical habitat (Service 1994, entire). These activities include: (1) removal or destruction of riparian vegetation; (2) thinning of riparian growth, particularly near ground level; (3) removal or destruction of adjacent chaparral or other upland habitats used for foraging; and (4) increases in human-associated or human-induced disturbance. While these are examples of activities that may affect critical habitat for the least Bell's vireo, other activities may be proposed that also affect the PBFs.

We designated critical habitat in 10 locations in southern California totaling 38,000 acres (Table 1). Within those 38,000 acres, approximately 10,979 acres are federal land (U.S. Forest Service, U.S. Army Corps of Engineers, and International Boundary and Water Commission). The remainder of the acreage is under control of state, county, city, Tribal, or private entities. At the time of the final rule for the critical habitat, the 38,000 acres represented approximately 49 percent of least Bell's vireo population in the United States (Service 1994).

Table 1: Least Bell's Vireo Critical Habitat Locations

Index Map Location*	Drainage	County
A	Santa Ynez River	Santa Barbara
B	Santa Clara River	Los Angeles/Ventura
C	Santa Ana River	Riverside/San Diego
D	Coyote Creek	San Diego
E	Santa Margarita River	San Diego
F	San Luis Rey River	San Diego
G	San Diego River	San Diego
H	Sweetwater River	San Diego
I	Jamul-Dulzura Creeks	San Diego
J	Tijuana River	San Diego

\* Index Map Locations from final rule (Service 1994)

### Recovery

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1. Complete a functional recovery plan for the vireo with realistic, objectively based recovery goals.
2. Provide funding and technical support for further studies investigating continuing threats to the vireo from cowbird parasitism, exotic plant invasion of riparian habitats, and potentially elevated predation pressures due to habitat fragmentation or presence of exotic predators (i.e., domestic cats and Argentine ants).
3. Complete an assessment or support other efforts (such as the RHJV effort) to assess the amount and distribution of riparian habitat in California including:
  - a. Establishment of baseline values for comparison to past and future estimates, including an assessment of various riparian habitat subtypes.
  - b. An evaluation of changes in distribution and connectivity of riparian habitat at different stream-order levels (i.e., primary, secondary, tertiary, etc.).

- c. An evaluation of the amount of riparian habitat restoration attempted and successfully completed since the listing, including restoration not driven by regulatory compliance.
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  - a. A systematic survey program to locate vireo re-colonization of the Salinas, San Joaquin, and Sacramento Valleys so that appropriate management can be developed and implemented.
  - b. Systematic survey programs for watersheds in southern California that are no longer regularly surveyed within a given 5-year period (e.g., Dulzura Creek/Jamul Creek/Otay River, San Diego River, San Dieguito River/Santa Ysabel Creek, San Gabriel River, etc.). It is possible that these systematic surveys may need to rely on volunteer efforts organized and supported by the Service.

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## **Southwestern Willow Flycatcher**

### Legal Status

The southwestern willow flycatcher was federally listed as endangered on February 27, 1995 (Service 1995, entire) and revised critical habitat for the southwestern willow flycatcher was designated on January 3, 2013 (Service 2013, entire). The final recovery plan for the subspecies was completed in August 2002 (Service 2002b, entire).

### Natural History

The southwestern willow flycatcher breeds only in riparian woodland, typically adjacent to or over water. Surface water or saturated soil is usually present in or adjacent to nesting sites during at least the initial portion of the nesting period (Tibbits et al. 1994, pg. 3). Riparian woodland used by willow flycatchers typically has a canopy and an understory of shrubs or saplings. Native willows dominate the habitat commonly represented in current and historical records.

Southwestern willow flycatchers do nest in some riparian habitats containing and even dominated by tamarisk (Sogge et al. 2006, pg. 2; Paradzick et al. 2000, pg. ii). Southwestern willow flycatcher productivity in some sites dominated by non-native vegetation is lower than in some native-dominated habitats (Durst 2017, pg. 18). The reverse is also true, however, within some tamarisk-dominated habitats where southwestern willow flycatcher productivity is similar or higher than nearby native-dominated sites (Sogge et al. 2006, pg. 3).

The southwestern willow flycatcher is a diurnal insectivore, catching its prey on the wing usually in the middle story of riparian woodland. Males maintain and advertise a territory by singing to attract females. There is little information on the factors a southwestern willow flycatcher female uses to select a mate, though it may be related to some factor of habitat quality or potential quality of the male (Service 2002b, pg. 21). Territorial defense begins immediately after spring arrival. Females occasionally sing, apparently when stimulated by territorial disputes (Sogge et al. 1997, pg. 150). Male southwestern willow flycatchers sing most persistently early in the breeding season, but song rate declines as the season progresses, particularly once the male finds a mate and nesting efforts begin (Sogge et al. 2010, pg. 20). Their response to taped playback of songs during surveys has also been known to decrease as the nesting season progresses. Mapped breeding territory sizes are 0.15 to 0.5 acre on the Colorado River (Sogge et al. 1997, pg. 147), 0.5 to 1.25 acres along the Verde River, Arizona (Finch et al. 2000, pg. 62), and 0.35 to 5.7 acres along the Kern River, California (Finch et al. 2000, pg. 62).

Nests are initiated usually within one week of pair formation, 10 to 14 days after spring arrival. Building nests takes 3 to 8 days. In historical egg collections from southern California, 86 percent of nests were in *Salix* spp. (willow), 4 percent in *Urtica dioica* (stinging nettles), and 10 percent in other plants (Unitt 1987, pg. 158). Females typically lay one egg per day, until the nest contains three to four eggs. Incubation begins after the last egg is laid, and lasts 12 to 13 days (Service 2002b, pg. 23). During incubation, females spend approximately 50 percent of the day attending (incubating or shading) the eggs and incubate throughout the night. Incubation and shading bouts can last from less than 1 to more than 60 minutes (Finch et al. 2000, pg. 65).

Southwestern willow flycatcher young usually leave the nest 12 to 15 days after hatching. During the brooding period, the young are cared for by both the male and female. Feeding trips during the peak of this period can reach 30 trips per hour during days 5 to 10 (Finch et al. 2000, pg. 65). Fledglings stay close to the nest and each other for 3 to 5 days and may repeatedly return to and leave the nest during this period (Finch et al. 2000, pg. 65).

Southwestern willow flycatchers typically arrive on breeding grounds from late April to early June (Service 2002b, pg. 21). Evidence gathered during multi-year studies of color-banded populations show that although most southwestern willow flycatchers return to former breeding areas, they regularly move among sites within and between years (Finch et al. 2000, pg. 62). From 1997 to 2000, 66 to 78 percent of southwestern willow flycatchers returned to the same breeding site (Service 2002b, pg. 22). Within drainage movements are more common than between drainage movements.

### Rangewide Status

The southwestern willow flycatcher breeds in southern California (north to the Santa Ynez River, Kern River, and Independence on the Owens River), southern Nevada, southern Utah, Arizona, New Mexico, and extreme western Texas. All subspecies of the willow flycatcher are completely migratory. The species as a whole winters from southern Mexico south through Central America to Panama and western Venezuela. Subspecies *extimus* has been collected in winter in Mexico, Guatemala, El Salvador, Nicaragua, and Costa Rica (Unitt 1997, pg. 14-16, Paxton et al. 2011, pg. 615).

Unitt (1987, pg. 149) concluded that the southwestern willow flycatcher was once fairly common in the Los Angeles Basin, where habitat is virtually absent now. Approximately 616 acres of riparian habitat has regenerated along the South Fork Kern River since the early 1980s, but fluctuations in number of territories in this area has made it difficult to determine a trend in the population for this area (Whitfield et al. 1999a, pg. 266). Downstream from the South Fork Kern River, willow flycatchers (unknown subspecies) were common breeders in the early 1900s, but today virtually no riparian habitat remains. Outside of the Kern River, southwestern willow flycatcher populations are present along the Owens, San Luis Rey, and Santa Margarita (Camp Pendleton) Rivers. Changes in land use along the San Luis Rey River have improved habitat quality and extent, which has resulted in an increase in the number of territorial southwestern willow flycatcher males from 12 in the late 1980s (Unitt 1987, pg. 153) to more than 40 in 1999 (Kus et al. 1999, pg. 11). In contrast, the populations on Camp Pendleton have remained fairly constant for the past two decades despite apparently suitable habitat to support population expansion. The remaining southwestern willow flycatcher populations in southern California, most of which number fewer than five territories, occur at scattered sites along drainages that have changed little in the past 15 years.

The decline of the southwestern willow flycatcher is attributed to numerous factors, including nest depredation and brood parasitism by the brown-headed cowbird. However, large scale loss of southwestern wetlands, particularly cottonwood-willow riparian habitat, is the principal reason for the southwestern willow flycatcher's current status. Habitat loss is a result of urban and agricultural development, water diversion and impoundment, livestock grazing, and hydrological changes attributable to these and other land uses (Service 1995, p. 10699). In some cases, willow flycatchers are faced with situations that force movement, such as when catastrophic habitat loss occurs from fire or flood. Several such cases have been documented, with some of the resident willow flycatchers moving to remaining habitat within the breeding site, some moving to other sites 1.2 to 16.8 miles away (Service 2002b, pg. 22), and others disappearing without being seen again. For a discussion on the status of riparian habitat, see the status of the least Bell's vireo above.

### Critical Habitat

Designated southwestern willow flycatcher critical habitat provides aquatic and terrestrial habitat containing the essential PBFs to support and maintain self-sustaining populations and

metapopulations throughout its range. The southwestern willow flycatcher breeds in riparian habitats along rivers, streams, or other wetlands, where relatively dense growths of trees and shrubs are established, near or adjacent to surface water or underlain by saturated soil. Habitat characteristics such as dominant plant species, size and shape of habitat patch, canopy structure, vegetation height, and vegetation density vary widely among sites. As a neotropical migrant (migrating between Central and South America and the United States), migration stopover areas for the southwestern willow flycatcher, even though not used for breeding, are critically important, (i.e., essential) resources affecting productivity and survival.

Based on our current knowledge of the life history, biology, and ecology of the subspecies and the requirements of the habitat to sustain the essential life history functions, we determined that the southwestern willow flycatcher's PBFs are:

(1) PCE 1— *Riparian vegetation*

Riparian habitat in a dynamic river or lakeside, natural or manmade successional environment (for nesting, foraging, migration, dispersal, and shelter) that comprises trees and shrubs (that can include Gooddings willow, coyote willow, Geyers willow, arroyo willow, red willow, yewleaf willow, pacific willow, box elder, tamarisk, Russian olive, buttonbush, cottonwood, stinging nettle, alder, velvet ash, poison hemlock, blackberry, seep willow, oak, rose, sycamore, false indigo, Pacific poison ivy, grape, Virginia creeper, Siberian elm, and walnut) and some combination of:

- a. Dense riparian vegetation with thickets of trees and shrubs that can range in height from 2 to 30 meters (about 6 to 98 feet). Lower-stature thickets (2 to 4 meters or 6 to 13 feet tall) are found at higher-elevation riparian forests and tall-stature thickets are found at middle- and lower-elevation riparian forests; and/or
- b. Areas of dense riparian foliage at least from the ground level up to approximately 4 meters (13 feet) above ground or dense foliage only at the shrub level, or as a low, dense tree canopy; and/or
- c. Sites for nesting that contain a dense (about 50 to 100 percent) tree or shrub (or both) canopy (the amount of cover provided by tree and shrub branches measured from the ground); and/or
- d. Dense patches of riparian forests that are interspersed with small opening of open water or marsh or areas with shorter and sparser vegetation that creates a variety of habitat that is not uniformly dense. Patch size may be as small as 0.1 ha (0.25 acre) or as large as 70 ha (175 acres); and

(2) PCE 2— *Insect prey populations*

A variety of insect prey populations found within or adjacent to riparian floodplains or moist environments, including: flying ants, wasps, and bees (Hymenoptera); dragonflies (Odonata);

flies (Diptera); true bugs (Hemiptera); beetles (Coleoptera); butterflies/moths and caterpillars (Lepidoptera); and spittlebugs (Homoptera).

### Recovery

The 2002 final recovery plan for the southwestern willow flycatcher states that the goal of recovery efforts is the reclassification of the subspecies from endangered to threatened and, ultimately, delisting of the subspecies. The plan states that reclassification to threatened status may be considered when either of the following criteria has been met:

- Criterion A: Increase the total known population to a minimum of 1,950 territories (equating to approximately 3,900 individuals), geographically distributed to allow proper functioning as metapopulations, so that the southwestern willow flycatcher is no longer in danger of extinction. For reclassification to threatened status, these prescribed numbers and distributions must be reached as minimum, and maintained over a 5-year period.
- Criterion B: Increase the total known populations to a minimum of 1,500 territories (equating to approximately 3,000 individuals), geographically distributed among Management Units and Recovery Units, so that the southwestern willow flycatcher is no longer in danger of extinction. Recovery Units are large watershed or hydrologic areas, while Management Units are a subset of the Recovery units and encompass local drainages and distinct geographic features. For reclassification to threatened status, these prescribed numbers and distributions must be reached as a minimum, and maintained over a 3-year period, and the habitats supporting this subspecies must be protected from threats and loss.

The plan states that the southwestern willow flycatcher may be removed from the list of threatened and endangered species when both of the following criteria have been met:

- Criterion 1: Meet and maintain, at a minimum, the population levels and geographic distribution specified under reclassification to threatened Criterion A.
- Criterion 2: Provide protection from threats and create/secure sufficient habitat to assure maintenance of these populations and/or habitat over time. The sites containing southwestern willow flycatcher breeding groups, in sufficient number and distribution to warrant downlisting, must be protected into foreseeable future through development and implementation of conservation management agreements (e.g., public land management planning process for Federal lands, habitat conservation plans (under Section 10 of the Act), conservation easements, and land acquisition agreements for private lands, and intergovernmental conservation agreements with Tribes). Prior to delisting, the Service must confirm that the agreements have been created and executed in such a way as to achieve their role in southwestern willow flycatcher recovery, and individual agreements for all areas within all Management Units (public, private, and Tribal) that are critical to

metapopulation stability (including suitable, unoccupied habitat) must have demonstrated their effectiveness for a period of at least 5 years.

The recovery plan groups recovery actions into nine categories: (1) increase and improve occupied, suitable, and potential breeding habitat; (2) increase metapopulation stability; (3) improve demographic parameters; (4) minimize threats to wintering and migration habitat; (5) survey and monitor; (6) conduct research; (7) provide public education and outreach; (8) assure implementation of laws, policies, and agreements that benefit the southwestern willow flycatcher; and (9) track recovery progress.

## ENVIRONMENTAL BASELINE

The implementing regulations for section 7(a)(2) (50 CFR 402.02) define the environmental baseline as “the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency’s discretion to modify are part of the environmental baseline.”

### Action Area

The implementing regulations for section 7(a)(2) of the Act (50 CFR 402.02) define the “action area” as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action. The action area for this biological opinion includes the riparian habitat along Coyote Creek, the Ryder Property, as well as creek channel from 500 feet upstream of Camp Chaffee Road downstream to its confluence with the Ventura River.

### Habitat Characteristics of the Action Area

The action area is heavily vegetated, with a mature riparian canopy that shades the narrow creek channel and a dense shrub understory with occasional patches of herbaceous vegetation. Vegetation Communities in the action area include black willow - red willow (*Salix laevigata*) riparian woodland and forest, California sycamore (*Platanus racemosa*) – coast live oak riparian woodland, coast live oak woodland, wild oats (*Avena* spp.) and annual brome (*Bromus* spp) grassland, Eucalyptus groves and developed/disturbed areas. The 3,300-foot reach of Coyote that would be subject to excavation is approximately 15 feet wide for a total of approximately 1.14 acres.

**Existing Conditions in the Action Area**

In addition to the riparian habitat described above the action area include roads, buildings, unvegetated areas, disturbed areas with little to no vegetation, and parts of campground. The developed areas include non-native ornamental species, as well as coast live oak canopy that overhangs above developed areas. The Coyote Creek thalweg is narrow and meandering beyond the normal creek boundaries in some areas, including into residential yards and underneath a porch, due to excessive sediment deposition. Coyote Creek also ponds unnaturally on Camp Chaffee Road due to the lack of defined channel and positive flow.

**Previous Consultations in the Action Area**

We have not issued any biological opinions on the effects to California red-legged frog, least Bell's vireo, or southwestern willow flycatcher within the action area.

**Condition (Status) of the Species in the Action Area**

We developed this section based on the biological assessment (NRCS 2024), California Natural Diversity Database (CNDDB) occurrence data (2024), published literature, and information provided by regional species experts and resource agencies.

**California Red-legged Frog**

The NRCS or County have not performed any surveys for the California red-legged frog within action area; however, in September 2022, California red-legged frog were detected by Rincon Consultant Inc. biologists downstream near Coyote Creek's confluence with the Ventura River at Foster Park (Rincon 2022, entire). In 2010 two adult California red-legged frogs were detected by the Padre Associate biologists also downstream near Coyote Creek's confluence with the Ventura River at Foster Park (K. Gilliland pers. comm. 2016). Foster Park is within dispersal distance of the action area. No California red-legged frogs have been reported within the action area. Typically, Coyote Creek is dry and there is no suitable habitat for breeding California red-legged frog; however, given flooding in 2023 and 2024 and releases from the upstream Casitas Reservoir water may persist within the action area long enough to create suitable habitat for breeding to occur. Under the right environmental conditions (i.e., sustained precipitation for the creation and retention of pools during the winter months), breeding individuals have the potential to occur within areas of Coyote Creek in the action area.

**Condition (Status) of Critical Habitat in the Action Area**

Critical habitat for the California red-legged frog is not designated in the action area and it will not be discussed further in this biological opinion.

### Recovery

The action area is within Recovery Unit 7 (Northern Transverse Ranges and Tehachapi Mountains) identified within the Service's 2002 Recovery Plan for the California red-legged frog (Service 2002a). The Recovery Plan did not identify specific goals for this Recovery Unit. However, the 2002 Recovery Plan did identify specific goals for the Ventura River-Santa Clara River Core Recovery Area, which are to restore habitat, control non-native predators and non-native plants, and remove the Matilija Dam.

### **Least Bell's Vireo**

The NRCS or County have not performed any surveys for the least Bell's vireo within action area; however, in May 2010, Thomas Ryan detected a least Bell's vireo downstream near Coyote Creek's confluence with the Ventura River at Foster Park (Ryan 2010, entire). There is suitable habitat for the least Bell's vireo within the action area.

### Condition (Status) of Critical Habitat in the Action Area

Critical habitat for the least Bell's vireo is not designated in the action area and it will not be discussed further in this biological opinion.

### Recovery

The draft recovery plan identified the action area to be within the historical and current range of the least Bell's vireo. The draft recovery plan for the least Bell's vireo identified 14 vireo "population/metapopulation units," which must show stable or increasing populations to downlist the least Bell's vireo to threatened status. The draft recovery plan does not identify any population/metapopulation units that include the action area, nor does it specify any recovery function for the Ventura River or its tributaries (i.e., Coyote Creek).

### **Southwestern Willow Flycatcher**

The NRCS or County have not performed any surveys for the southwestern willow flycatcher within action area; however, in April 2010, Thomas Ryan detected a southwestern willow flycatcher downstream near Coyote Creek's confluence with the Ventura River at Foster Park (Ryan 2010, entire). It was not detected on subsequent surveys and there is not suitable breeding habitat for the southwestern willow flycatcher within the action area.

### Condition (Status) of Critical Habitat in the Action Area

Critical habitat for the southwestern willow flycatcher is not designated in the action area and it will not be discussed further in this biological opinion.

### Recovery

The action area is located within the Coastal California Recovery Unit of the final recovery plan for the southwestern willow flycatcher. The Ventura River, of which Coyote Creek is a territory, from Matilija Hot Springs downstream to Pacific Ocean, is a reach within the Santa Clara River Management Unit where recovery actions should be focused (Service 2002b, p. 86). Specifically, the metapopulation in the Santa Clara Management Unit has been identified as essential for increased population stability and enhancement. The recovery plan sets the goal of a minimum number of 25 territories documented for this management unit before the southwestern willow flycatcher can be reclassified to threatened.

### EFFECTS OF THE ACTION

The implementing regulations for section 7(a)(2) define effects of the action as “all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action” (50 CFR 402.02). In conducting this analysis, we have considered factors such as 5-year reviews; recovery plans; other Service documents; published scientific studies and literature; professional expertise of Service personnel and biologists, particularly dealing with aspects directly related to the sensitive species involved, invasive species, threat assessments, botany, conservation biology, ecology, or other related scientific fields in determining whether effects are reasonably certain to occur. We have also determined that certain consequences are not caused by the proposed action, such as the increase or spread of disease, poaching, or collecting, because they are so remote in time, or geographically remote, or separated by a lengthy causal chain, so as to make those consequence not reasonably certain to occur.

While there would be temporary effects to accomplish the project goals, there would be permanent benefits to the habitat. Native vegetation would recover quickly with project planting and natural recruitment. Disturbed areas would be revegetated with a native seed mix and willow (*Salix* sp.) cuttings would be installed along the upper edge of the new creek channel slopes. The benefits of the pilot channel to wildlife including California red-legged frog, least Bell's vireo, and southwestern willow flycatcher, consist of repairing the creek by realigning the flow. In the upstream reach of the action area, the creek thalweg splits and runs along the main channel that is Coyote Creek, but also runs through developed residential property. The restored channel would consolidate the channel braids that run through residential properties and structures, which would benefit aquatic species under many flow conditions.

As a result of the Ryder Property buyout and its restoration with native vegetation, there will be and estimated additional 1.5 acres of upland habitat available for the California red-legged frog, least Bell's vireo and southwestern willow flycatcher.

Once project activities are completed, including the Ryder Property buyout, and native vegetation has been reestablished there would be a net increase of suitable habitat for California red-legged frog, least Bell's vireo, and southwestern willow flycatcher, totaling approximately 3.76 acres.

### **Effects of the Proposed Action on the California Red-legged Frog**

California red-legged frogs may be injured or killed by inadvertent trampling by workers from foot traffic and operation of equipment during the removal of sediment, vegetation, or mitigation/restoration activities. These effects would be minimized by the County's proposal to conduct pre-construction surveys and to have a biologist present during vegetation clearing activities in order to identify California red-legged frogs in the project area. Any California red-legged frogs found and determined by the biologist to be at risk would be relocated to a nearby suitable habitat. It is possible that not all California red-legged frogs within the proposed disturbance area would be detected during these surveys, and may be injured or killed despite survey efforts intended to detect their presence.

California red-legged frogs could be injured or killed if they are improperly handled or contained during capture and relocation efforts. Larval amphibians have been shown to be sensitive to latex, nitrile, and vinyl, with latex and nitrile causing up to 100 percent tadpole mortality following only 30 to 90 seconds of direct contact (Cashins et al. 2008, p. 299). Effects of these materials on adult frogs are less well documented. Rinsed vinyl gloves appear to be the least toxic alternative, when the use of gloves is necessary (Cashins et al. 2008, p. 300). If gloves containing these products are worn during capture and relocation activities, there is the potential that California red-legged frogs could be injured or killed. Additionally, adverse effects due to handling and relocation could be increased or prolonged if a suitable relocation area is not identified prior to initiating surveys. These threats should be minimized by the County's proposed use of biologists with experience in the capture and relocation of these species.

Relocated California red-legged frogs may be at risk of injury or death through predation or dehydration during an attempt to return to a work area from which they had been moved. This risk may increase with the distance of the relocation site from the work area. However, relocating individuals will minimize the direct risk of injury or mortality as a result of construction activities.

Handling California red-legged frogs, or introducing equipment into their breeding ponds, can also result in the spread of chytrid fungus (*Batrachochytrium dendrobatidis*), a pathogen linked to declines in amphibians. Chytrid fungus is a water-borne fungus that can be spread through direct contact between aquatic animals and by a spore that can move short distances through the water. The fungus can decimate amphibian populations, causing fungal dermatitis, which usually results in death in 1 to 2 weeks. Infected animals may spread the fungal spores to other ponds and streams before they die. Once a pond has become infected with chytrid fungus, the fungus stays in the water for an undetermined amount of time. If California red-legged frogs that are relocated from the project are infected with chytrid fungus, they may spread the fungal spores to

uninfected individuals in the relocation areas. If they are not infected, they may become infected through exposure to infected amphibians inhabiting the relocation area.

California red-legged frogs are known to be more surface active (e.g., foraging, dispersing) at night. If trenches or other excavations are left open overnight, California red-legged frogs may fall in and become trapped. Trapped individuals may be more vulnerable to predators (e.g., raccoons (*Procyon lotor*)) or they may exhaust themselves trying to get out. If they remain in the trench until daylight, they may desiccate in the sun, be exposed to daytime predators (e.g. great blue herons (*Ardea herodias*)) or be found in harm's way when trench installation activities resume.

Glyphosate is the active ingredient in a variety of herbicides including Roundup, Rodeo, Aquamaster, Buccaneer, Glyphos, Honcho, Touchdown, Vision, Duramax, Rattler, and others. Glyphosate is a systemic herbicide that will kill broadleaf and grass species by inhibiting the production of aromatic amino acids in plants and some microorganisms that are necessary to build proteins (Giesy et al. 2000, p. 45, Kanissery et al. 2019, p. 1). Most glyphosate products are formulated to contain surfactants that allow the active ingredients to spread over and penetrate the plant cuticles. Surfactants can be the most toxic portion of a pesticide product. The surfactant associated with many glyphosate products is a polyethoxylated tallowamine (POEA) surfactant.

California red-legged frog eggs, tadpoles, juveniles and adults can be exposed to glyphosate products and POEA surfactants in aquatic habitats through direct overspray of wetlands, drift from treated areas, or contaminated runoff from treated areas. The half-life of glyphosate in pond water ranges between 12 days and 10 weeks (Exttoxnet 1996). Additionally, juvenile and adult California red-legged frogs can be exposed in terrestrial habitats that have been treated. Glyphosate and POEA readily sorbs to soil particles and can be degraded by microbes in 7 to 70 days depending on soil conditions (Giesy et al. 2000, p. 52).

No information is available regarding the toxicity of glyphosate products specifically to California red-legged frogs. Studies exploring the lethal and sublethal effects of glyphosate products on other amphibians, including ranids, are available but are largely focused on aquatic stages of the species and formulations of glyphosate that include surfactants. Roundup Original Max, a glyphosate product with POEA surfactant, was demonstrated to be moderately to highly toxic to nine species of frog and toad tadpoles including five Ranidae species: wood frog (*Rana sylvatica*), leopard frog (*Rana pipiens*), Cascades frog (*Rana cascadae*), green frog (*Rana clamitans*), and American bullfrog (*Lithobates catesbeiana*) (Relyea and Jones 2009, p. 2008). The mortality of tadpoles is hypothesized to be caused by the lysis (i.e., destruction) of gill cells from exposure to surfactants (Lajmanovich et al. 2003, p. 614, Edington et al. 2004, p. 218) indicating that the life stage during which frogs and toads have gills may be particularly vulnerable. Glyphosate products containing POEA surfactants have also been shown to have sub-lethal effects to amphibians including decreased size, increased time to metamorphosis, tail malformations, and gonadal abnormalities (Govindarajulu 2008, p. ii, Howe et al. 2004, p. 1933). Several studies suggest that the toxicity of glyphosate products is linked with the surfactant, and not the glyphosate. Howe et al. (2004, entire) compared the toxicity of glyphosate alone, to

glyphosate with POEA surfactant, and POEA alone, on green frogs. Results indicated that the toxicity of glyphosate with POEA surfactant was similar to the POEA surfactant alone, which was much greater than glyphosate alone, indicating that the POEA was responsible for the toxic effects. In a comprehensive review of studies involving the effects of glyphosate on amphibians Govindarajulu (2008, p. 4) concluded that the toxic effect of glyphosate products containing POEA are due to the POEA rather than the active glyphosate ingredient.

These studies indicate that glyphosate products formulated with POEA surfactants will likely kill or injure California red-legged frogs in aquatic habitats, with tadpoles being particularly vulnerable. Because glyphosate and POEA readily bind to soil and sediments, these chemicals may be less available to California red-legged frogs on land, however, research is needed to determine toxicity mechanisms and thresholds from terrestrial exposure. Effects to California red-legged frogs from the use of glyphosate products will be minimized by the County's proposal to use a glyphosate formulation that does not contain a surfactant.

#### Effects on Recovery

The proposed project would not increase the threats currently impacting the California red-legged frog in the Ventura River-Santa Clara River recovery core area or preclude the Service's ability to implement recovery actions. Although the Project would adversely affect aquatic and upland habitat for the California red-legged frog and may injure or kill a small number of individuals, impacts would be temporary and limited in scope. Thus, we do not expect Project effects to be of a magnitude that would affect the ability of the Ventura River-Santa Clara River recovery core area to remain occupied by the species, provide connectivity between occupied areas, or provide dispersing individuals to colonize other areas as specified in the recovery plan.

#### Summary of Effects

We anticipate no long-term effects to the overall population, reproductive capacity, or recovery of the California red-legged frog from the proposed project. The proposed project could adversely affect California red-legged frogs of any life stage given the known occurrence of the species, suitable habitat within the action area, and potential overlap of proposed project activities with the species' breeding period. The proposed project would cause temporary disturbance and/or loss of aquatic, upland, and dispersal habitat, and could result in mortality of some California red-legged frog larvae, juveniles or adults, with a lower probability of effects to egg masses. However, based on the limited spatial and temporal extent of proposed project impacts, proposed work window, and conservation measures to be implemented, we conclude that few, if any, California red-legged frogs are likely to be killed or injured. We do not expect that local populations would be affected to a magnitude that would prevent them from sustaining themselves. We do not expect that the Project would affect the ability of the Ventura River-Santa Clara River recovery core area to remain occupied by the species, provide connectivity between occupied areas, or provide dispersing individuals to colonize other areas.

### **Effects of the Proposed Action on the Least Bell's Vireo**

Proposed activities would completely remove habitat and reduce availability of breeding, nesting, and foraging sites for least Bell's vireos. Even if habitat modification activities occur outside of the breeding season, the reduction of nesting and foraging habitat could adversely affect individual least Bell's vireos by reducing the available resources for individuals' subsequent reproduction (on their return from wintering grounds).

Proposed activities such as excavation (sediment removal), grading, and removal of riparian vegetation (channel clearing) within Coyote Creek Removing may cause least Bell's vireo to seek out new territories and breeding sites. Moving to an unfamiliar territory may expose least Bell's vireos to exhaustion and reduced fitness or starvation associated with decreased foraging opportunities, increased predation risk, inter- and intra-species interactions, and decreased probability of nesting success.

Accidental releases of contaminants (e.g., fuels, oil, herbicides, pesticides, etc.) into the riparian area or water may negatively affect the quality of the habitat for the least Bell's vireo by killing native plants used for nesting or foraging and decreasing the prey base. Measures including clearly delineating the limits of work area with fencing and worker education on the importance of staying out of sensitive areas such a riparian habitat would minimize these effects. If least Bell's vireo nests are detected in work areas, a 500-foot buffer around the nest would be established and avoided until the chicks have fledged. These measures would be effective at reducing the likelihood that nesting least Bell's vireo would be adversely affected.

Follow-up vegetation maintenance and monitoring activities may occur during the breeding season when active nests may be present in the area. Young fledglings in the action area could be flushed from buffer areas by workers, excessive noise, or physical impact. To minimize effects to least Bell's vireos during the nesting season, the County has proposed to conduct surveys to identify any individuals or nests that could be affected by maintenance and monitoring activities. The biologist would advise workers of safe access routes to and from the site.

### **Effects on Recovery**

The draft recovery plan for the least Bell's vireo calls for stable or increasing populations of "several hundred or more breeding pairs" within each of the population/metapopulation units in order for the species to be downlisted from endangered to threatened. Delisting will be considered when populations are stable or increasing over a 5-year period and when threats are reduced or eliminated so that populations/metapopulations are capable of persisting without significant human intervention or when perpetual endowments are secured for cowbird trapping and exotic plant control in riparian habitat.

We do not expect the proposed project to substantially affect the conservation of the least Bell's vireo, in terms of the recovery strategy described in the recovery plan because:

1. The proposed project area does not occur within an identified recovery unit in the draft recovery plan;
2. The current trend in the nearest recovery unit (i.e., Santa Clara River population/metapopulation unit) is increasing (Service 2006b, p. 19); and
3. The vegetation removal/restoration portion of the revised biological assessment (NRCS 2024, p. 4) would target exotic plants for removal, thereby facilitating the reduction of this threat to the species identified in the draft recovery plan.

### Summary of Effects

The total effect of the project on known least Bell's vireo territories would be negligible, based on the available suitable habitat in the action area. Most of the existing suitable habitat for the least Bell's vireo would be preserved in the action area, and the County and NRCS has proposed specific measures (e.g., exotic plant removal, habitat restoration, etc.) to address likely sources of adverse effects that could result from the action. Therefore, we conclude that the proposed action would not have substantial adverse effects on the reproduction, numbers, or distribution of the least Bell's vireo.

### **Effects of the Proposed Action on the Southwestern Willow Flycatcher**

Same as the least Bell's vireo, proposed activities would completely remove habitat and reduce availability of breeding, nesting, and foraging sites for southwestern willow flycatcher. Even if habitat modification activities occur outside of the breeding season, the reduction of nesting and foraging habitat could adversely affect individual southwestern willow flycatcher by reducing the available resources for individuals' subsequent reproduction (on their return from wintering grounds).

Proposed activities such as excavation (sediment removal), grading, and removal of riparian vegetation (channel clearing) within Coyote Creek Removing may cause southwestern willow flycatcher to seek out new territories and breeding sites. Moving to an unfamiliar territory may expose southwestern willow flycatcher to exhaustion and reduced fitness or starvation associated with decreased foraging opportunities, increased predation risk, inter- and intra-species interactions, and decreased probability of nesting success.

Accidental releases of contaminants (e.g., fuels, oil, herbicides, pesticides, etc.) into the riparian area or water may negatively affect the quality of the habitat for the southwestern willow flycatcher by killing native plants used for nesting or foraging and decreasing the prey base. Measures including clearly delineating the limits of work area with fencing and worker education on the importance of staying out of sensitive areas such a riparian habitat would minimize these effects. If southwestern willow flycatcher nests are detected in work areas, a 500-foot buffer around the nest would be established and avoided until the chicks have fledged.

These measures would be effective at reducing the likelihood that nesting southwestern willow flycatcher would be adversely affected.

Follow-up vegetation maintenance and monitoring activities may occur during the breeding season when active nests may be present in the area. Young fledglings in the action area could be flushed from buffer areas by workers, excessive noise, or physical impact. To minimize effects to southwestern willow flycatchers during the nesting season, the County has proposed to conduct surveys to identify any individuals or nests that could be affected by maintenance and monitoring activities. The biologist would advise workers of safe access routes to and from the site.

#### Effects on Recovery

The final recovery plan for the southwestern willow flycatcher calls for a minimum number of 25 territories documented for Santa Clara River Management Unit before the southwestern willow flycatcher can be reclassified to threatened. We do not expect the proposed project to substantially affect the conservation of the southwestern willow flycatcher, in terms of the recovery strategy described in the recovery plan because:

1. The project fulfills a recovery objective of removing giant reed and other non-native plants from otherwise suitable habitat for the species, and may facilitate the nesting of additional pairs that will help approach the recovery goal of 25 nesting pairs within the management unit; and
2. Habitat for the southwestern willow flycatcher within Coyote Creek marginally suitable and the effects to the Santa Clara River Management Unit from project activities would be relatively minor.

#### Summary of Effects

The total effect of the project on known southwestern willow flycatcher territories would be negligible, based on the available suitable habitat in the action area. Most of the existing suitable habitat for the southwestern willow flycatcher would be preserved in the action area, and the County and NRCS has proposed specific measures (e.g., exotic plant removal, habitat restoration, etc.) to address likely sources of adverse effects that could result from the action. Therefore, we conclude that the proposed action would not have substantial adverse effects on the reproduction, numbers, or distribution of the southwestern willow flycatcher.

#### CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. We do not consider future Federal actions that are unrelated to the proposed action in this section because

they require separate consultation pursuant to section 7 of the Act. We are unaware of any future State, tribal, local or private actions that are reasonably certain to occur in the action area.

## CONCLUSION

The regulatory definition of “to jeopardize the continued existence of the species” focuses on assessing the effects of the proposed action on the reproduction, numbers, and distribution, and their effect on the survival and recovery of the species being considered in the biological opinion. For that reason, we have used those aspects of the California red-legged frog, least Bell's vireo, southwestern willow flycatcher status’ as the basis to assess the overall effect of the proposed action on the species.’

### **California Red-legged Frog**

#### Reproduction

The proposed authorization would not appreciably diminish the reproductive capacity of the California red-legged frog within the action area. Any reduction in reproductive capacity of California red-legged frogs in the action area resulting from the proposed authorization would likely be compensated for during the next reproductive cycle.

#### Numbers

The proposed authorization would not appreciably diminish the numbers of the California red-legged frog within the action area. Any reduction in numbers of California red-legged frogs in the action area resulting from the proposed authorization would likely be compensated for during the next reproductive cycle.

#### Distribution

To reduce a species’ range, an action would have to eliminate habitat for the species or eliminate individuals from currently occupied habitat, especially at the periphery of the species’ range. Given the small size of the action area and the extent of direct and indirect effects, we conclude that the proposed actions would not reduce the distribution of the California red-legged frog from its current rangewide condition.

#### Recovery

As stated earlier, the Ventura River is within a core recovery area. Conservation needs identified for the Ventura-Santa Clara River Core Areas include restoring habitat and protecting habitat connectivity. The ability for California red-legged frog to disperse through the action area in either direction (i.e., upstream or downstream) will not be compromised and connectivity will be maintained. As such, the proposed project would not preclude or appreciably diminish the recovery of the California red-legged frog.

**Least Bell's Vireo**Reproduction

Removal of riparian vegetation would reduce availability of breeding or non-breeding habitat. Few least Bell's vireos are expected to be present in the action area and breeding is not anticipated given the small amount and marginal quality of riparian habitat. To minimize the project's effects on reproduction of the least Bell's vireo, the County proposes to conduct surveys, refrain from vegetation removal within 500 feet of a nest if nesting occurs, and control trash that may attract nest predators. These actions should effectively reduce any project related impacts to the species reproduction. Therefore, we expect the local effect of the proposed action on reproduction of the least Bell's vireo to be minimal in the short-term and conclude that the proposed action will not appreciably reduce the species' ability to reproduce rangewide.

Numbers

The area of direct impacts encompasses a small fraction of least Bell's vireo foraging and breeding habitat available locally and regionally. The County's also proposes measures to reduce indirect impacts that could disturb individuals or nests, such as establishing buffers around nests and not working at night. We expect through implementation of the proposed conservation measures, adverse effects from the project would be minimal, and no least Bell's vireos would be killed or injured by the proposed action. Therefore, we have determined that implementation of the proposed action is not expected to appreciably reduce the numbers of the least Bell's vireos locally or rangewide.

Distribution

The proposed action would temporarily reduce a small portion of habitat available to the least Bell's vireo; however, the habitat quality is poor and more suitable quality would remain available around the project site, and the overall distribution of the least Bell's vireo would remain unchanged. Accordingly, the proposed action would have a negligible effect on the distribution of the least Bell's vireo. Therefore, we have determined that the proposed action would not appreciably reduce the distribution of the least Bell's vireo.

Recovery

The proposed action does not occur in any of the planned recovery areas for the least Bell's vireo (e.g. recovery units, critical habitat units). The proposed action site contains a very small amount of riparian habitat that is of marginal quality. Accordingly, the proposed action would have a negligible effect on recovery efforts for the least Bell's vireo. Therefore, we have determined that the proposed action would not appreciably reduce the likelihood of recovery of the least Bell's vireo.

## **Southwestern Willow Flycatcher**

### Reproduction

Removal of riparian vegetation would reduce availability of breeding or non-breeding habitat. Few southwestern willow flycatcher are expected to be present in the action area and breeding is not anticipated given the small amount and marginal quality of riparian habitat. To minimize the project's effects on reproduction of the southwestern willow flycatcher, the County proposes to conduct surveys, refrain from vegetation removal within 500 feet of a nest if nesting occurs, and control trash that may attract nest predators. These actions should effectively reduce any project related impacts to the species reproduction. Therefore, we expect the local effect of the proposed action on reproduction of the southwestern willow flycatcher to be minimal in the short-term and conclude that the proposed action will not appreciably reduce the species' ability to reproduce rangewide.

### Numbers

The area of direct impacts encompasses a small fraction of southwestern willow flycatcher foraging and breeding habitat available locally and regionally. The County's also proposes measures to reduce indirect impacts that could disturb individuals or nests, such as establishing buffers around nests and not working at night. We expect through implementation of the proposed conservation measures, adverse effects from the project would be minimal, and no southwestern willow flycatcher would be killed or injured by the proposed action. Therefore, we have determined that implementation of the proposed action is not expected to appreciably reduce the numbers of the southwestern willow flycatcher locally or rangewide.

### Distribution

The proposed action would temporarily reduce a small portion of habitat available to the southwestern willow flycatcher; however, the habitat quality is poor and more suitable quality would remain available around the project site, and the overall distribution of the southwestern willow flycatcher would remain unchanged. Accordingly, the proposed action would have a negligible effect on the distribution of the southwestern willow flycatcher. Therefore, we have determined that the proposed action would not appreciably reduce the distribution of the southwestern willow flycatcher.

### Recovery

The proposed action does occur within the Santa Clara River Management Unit; however, action area contains a very small amount of riparian habitat that is of marginal quality. Accordingly, the proposed action would have a negligible effect on recovery efforts for the southwestern willow flycatcher. Therefore, we have determined that the proposed action would not appreciably reduce the likelihood of recovery of the southwestern willow flycatcher.

After reviewing the current status' of California red-legged frog, least Bell's vireo, and the southwestern willow flycatcher, the environmental baseline for the action area, the effects of the proposed project and the cumulative effects, it is the Service's biological opinion that the project, as proposed, is not likely to jeopardize the continued existence of the California red-legged frog, least Bell's vireo, and the southwestern willow flycatcher, because:

1. The project would not appreciably reduce reproduction of the species either locally or rangewide.
2. The project would affect a very small number of individuals, if any, and would not appreciably reduce numbers of California red-legged frog, least Bell's vireo, or southwestern willow flycatcher at the local level or rangewide.
3. The project would not reduce the species' distribution either locally or rangewide.
4. The project would not cause any effects that would preclude our ability to recover the California red-legged frog, least Bell's vireo, or southwestern willow flycatcher.

#### INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened wildlife species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harass" means an "intentional or negligent act or omission which creates [a] likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering" (50 CFR. 17.3). Harm in the definition of "take" in the Act means an act which actually kills or injures wildlife. Such [an] act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not the purpose of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this incidental take statement.

This incidental take statement is based upon the proposed action occurring as described in the accompanying biological opinion. Take of listed species in accordance with this incidental take statement is exempted under section 7(o)(2) of the Act. The NRCS must ensure that the applicant implements the proposed action as described in this biological opinion and undertake the non-discretionary measures described below; otherwise, the exemption provided under section 7(o)(2) of the Act may lapse. The NRCS has a continuing duty to regulate the activity covered by this incidental take statement. If the NRCS: (1) fails to assume and implement the terms and conditions, or (2) fails to require [the Applicant] to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. To monitor the impact of incidental take, the NRCS or County must report the progress of its action and the impact on the species to the Service as specified in this incidental take statement (50 CFR 402.14(i)(3))."

## AMOUNT OR EXTENT OF TAKE

**California Red-legged Frog**

We anticipate that some California red-legged frogs could be taken as a result of the proposed action. We expect the incidental take to be in the form of capture during relocation activities, and in the form of harm, injury, or death as a result of construction activities if individuals are accidentally injured or killed during capture and relocation, or are unable to be collected for relocation and remain in active construction areas. California red-legged frogs could also be killed or wounded by predators if they abandon habitat within or adjacent to work areas and be subject to desiccation if they leave shelter sites.

We cannot quantify the precise number of California red-legged frogs that may be taken as a result of proposed action because the species moves over time; for example, animals may have entered or departed the action area since the time of pre-construction surveys and initial capture and relocation. California red-legged frogs may be difficult to detect due to their small size and use of aquatic habitats, underground burrows, or dense cover. Animals injured or killed during relocation efforts are likely to be observed; however, mortality from other sources, including the indirect effects of relocation (e.g., unable to find food in a new location) or displacement from the action area, would be difficult to observe. Finding a dead or injured California red-legged frog may also be unlikely due to their cryptic coloration and potential to be quickly scavenged. The protective measures proposed by NRCS and the County are likely to prevent mortality or injury of most individuals.

Consequently, we are unable to reasonably anticipate the actual number of California red-legged frogs that would be taken by the proposed action; however, we must provide a level at which formal consultation would have to be reinitiated. The Environmental Baseline and Effects Analysis sections of this biological opinion indicate that adverse effects to the California red-legged frog would likely be low given the nature of the proposed activities, and we therefore anticipate that take of California red-legged frogs would also be low. We also recognize that for every California red-legged frog found dead or injured, other individuals may be killed or injured that are not detected, so when we determine an appropriate take level we are anticipating that the actual take would be higher and we set the number below that level.

Similarly, for estimating the number of California red-legged frogs that would be taken by capture, we cannot predict how many may be encountered for reasons stated earlier. While the benefits of relocation (i.e., minimizing mortality) outweigh the risk of capture, we must provide a limit for take by capture at which consultation would be reinitiated because high rates of capture may indicate that some important information about the species in the action area was not apparent (e.g., it is much more abundant than thought). Conversely, because capture and relocation can be highly variable, depending upon the species and the timing of the activity, we do not anticipate a number so low that reinitiation would be triggered before the effects of the activity were greater than what we determined in the Effects Analysis.

Therefore, if two (2) adults or juveniles, or metamorphs, or ten (10) tadpoles of the California red-legged frog are found dead or injured, or are killed or injured during capture and relocation, or if one (1) egg mass is destroyed during project activities, the NRCS must contact our office immediately to reinitiate formal consultation. Project activities that are likely to cause additional take should cease during this review period because the exemption provided under section 7(o)(2) may lapse and any further take could be a violation of section 4(d) or 9.

### **Least Bell's Vireo**

We anticipate that some least Bell's vireo could be taken as a result of the proposed action. We expect the incidental take to be in the form of harm because the birds may be forced from their territory into adjacent habitat that may be less suitable where they would be at risk of predation, starvation, or other injury as described in the Effects of the Action. Furthermore, active nests may be abandoned or preyed upon by predators (e.g., corvid species).

We cannot quantify the precise number of least Bell's vireo that may be taken as a result of the action the proposed action because least Bell's vireo move over time; for example, animals may have entered or departed the action area since the time of pre-construction surveys. Other individuals may not be detected due to their cryptic nature, or small size. The protective measures proposed by the NRCS are likely to prevent mortality or injury of most individuals. In addition, finding a dead or injured least Bell's vireo is unlikely.

Consequently, we are unable to reasonably anticipate the actual number of least Bell's vireo that would be taken by the proposed action; however, we must provide a level at which formal consultation would have to be reinitiated. The Environmental Baseline and Effects Analysis sections of this biological opinion indicate that adverse effects to least Bell's vireo would likely be low given the nature of the proposed activities, and we, therefore, anticipate that take of least Bell's vireo would also be low. We also recognize that for every least Bell's vireo found dead or injured, other individuals may be killed or injured that are not detected, so when we determine an appropriate take level we are anticipating that the actual take would be higher and we set the number below that level.

Therefore, if more than two (2) least Bell's vireo adult, subadult, or egg are found dead or wounded, the NRCS must contact our office immediately to reinitiate formal consultation. Project activities that are likely to cause additional take should cease as the exemption provided pursuant to section 7(o)(2) may lapse and any further take could be a violation of section 4(d) or 9.

### **Southwestern Willow Flycatcher**

We anticipate that some southwestern willow flycatcher could be taken as a result of the proposed action. We expect the incidental take to be in the form of harm because the birds may be forced from their territory into adjacent habitat that may be less suitable where they would be

at risk of predation, starvation, or other injury as described in the Effects of the Action. Furthermore, active nests may be abandoned or preyed upon by predators (e.g., corvid species).

We cannot quantify the precise number of southwestern willow flycatcher that may be taken as a result of the proposed action because southwestern willow flycatcher move over time; for example, animals may have entered or departed the action area since the time of pre-construction surveys. Other individuals may not be detected due to their cryptic nature, or small size. The protective measures proposed by the NRCS are likely to prevent mortality or injury of most individuals. In addition, finding a dead or injured southwestern willow flycatcher is unlikely.

Consequently, we are unable to reasonably anticipate the actual number of southwestern willow flycatcher that would be taken by the proposed action; however, we must provide a level at which formal consultation would have to be reinitiated. The Environmental Baseline and Effects Analysis sections of this biological opinion indicate that adverse effects to southwestern willow flycatcher would likely be low given the nature of the proposed activities, and we, therefore, anticipate that take of southwestern willow flycatcher would also be low. We also recognize that for every southwestern willow flycatcher found dead or injured, other individuals may be killed or injured that are not detected, so when we determine an appropriate take level we are anticipating that the actual take would be higher and we set the number below that level.

Therefore, if two (2) southwestern willow flycatcher adult, subadult, or egg are found dead or wounded, the NRCS must contact our office immediately to reinitiate formal consultation. Project activities that are likely to cause additional take should cease as the exemption provided pursuant to section 7(o)(2) may lapse and any further take could be a violation of section 4(d) or 9.

## REASONABLE AND PRUDENT MEASURES

The measures described below are non-discretionary, and must be undertaken by the NRCS or made binding conditions of any grant or permit issued to the County, as appropriate, for the exemption in section 7(o)(2) to apply. The NRCS has a continuing duty to regulate the activity covered by this incidental take statement. If the NRCS (1) fails to assume and implement the terms and conditions or (2) fails to require the County to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. To monitor the impact of incidental take, the NRCS or the County must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR 402.14(i)(3)].

The Service believes the following reasonable and prudent measure is necessary and appropriate to minimize the impacts of the incidental take of California red-legged frog:

Measures to minimize adverse effects to California red-legged frogs and tadpoles must be employed during water pumping.

## TERMS AND CONDITION

To be exempt from the prohibitions of section 9 of the Act, the NRCS must comply with the following term and condition, which implements the reasonable and prudent measure described above and outline reporting and monitoring requirements. This term and condition is non-discretionary.

Intakes of any pumps used for dewatering or diversions must be completely screened with wire mesh with openings no larger than 0.25 inch.

## REPORTING REQUIREMENTS

Pursuant to 50 CFR 402.14(i)(3), the NRCS must report the progress of the action and its impact on the species to the Service as specified in this incidental take statement. The NRCS must submit a final report to the Service's Ventura Fish and Wildlife Office via electronic mail within 90 days following completion of the proposed project. The report should be sent to [fw8venturasection7@fws.gov](mailto:fw8venturasection7@fws.gov), and must describe all activities that were conducted under this biological opinion, including activities and conservation measures that were described in the proposed action and required under the terms and conditions, and discuss any problems that were encountered in implementing conservation measures or terms and conditions and any other pertinent information. The report also must include the Service's file number for this biological opinion 2024-0100544-S7-001 and the following information:

The number of California red-legged frog, least Bell's vireo, or southwestern willow flycatcher observed, captured and relocated during the project, and the number killed or injured during project activities, if any, and the dates and times of capture, mortality, or injury.

Within 90 days following the completion of the project, the NRCS or County will fill out and submit CNDDDB field survey forms for all federally listed species observed during the course of this project. For instructions on how to submit data, refer to <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

## DISPOSITION OF DEAD OR INJURED SPECIMENS

As part of this incidental take statement and pursuant to 50 CFR 402.14(i)(1)(v), upon locating a dead or injured California red-legged frog, least Bell's vireo, or southwestern willow flycatcher, initial notification within 3 working days of its finding must be made by electronic mail to the Ventura Fish and Wildlife Office's section 7 electronic mail account [fw8VenturaSection7@fws.gov](mailto:fw8VenturaSection7@fws.gov). The report must include the date, time, location of the carcass, a photograph, cause of death or injury, if known, and any other pertinent information. In the subject of the notification, include the Service's reference number for the consultation and the county the project is in.

The County must take care in handling injured animals to ensure effective treatment and care, and in handling dead specimens to preserve biological material in the best possible state. The County must transport injured animals to a qualified veterinarian. Should any treated California red-legged frog, least Bell's vireo, or southwestern willow flycatcher survive, the County must contact the Service regarding the final disposition of the animal(s).

The remains of any California red-legged frog, least Bell's vireo, or southwestern willow flycatcher must be placed with the USGS, contact: Tristan Edgarian, U.S. Geological Survey, San Diego Field Station, 4165 Spruance Road., San Diego, California 92101; (619) 225-6458. The County or NRCS should arrange with USGS regarding proper disposition of potential specimens prior to the commencement of project activities. In the case of take or suspected take of listed species not exempted in this conference opinion, the Ventura Fish and Wildlife Office must be notified at [fw8venturasection7@fws.gov](mailto:fw8venturasection7@fws.gov) within 24 hours.

### CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to use their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. The conservation recommendations below are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information and can be used by NRCS to fulfill their 7(a)(1) obligations.

1. We recommend that any non-native predators of California red-legged frog and southwestern pond turtle, be permanently removed from the wild if they can be captured while monitoring project activities. Anyone conducting such removals should be in compliance with the California Fish and Game Code.
2. We recommend that the County relocate other native amphibians and reptiles that could be harmed by project activities from the project area to suitable habitat outside the project area prior to and during project activities.

The Service requests notification of the implementation of any conservation recommendations so we may be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats.

### REINITIATION NOTICE

This concludes formal consultation on the action(s) outlined in the Flow Capacity Restoration within Coyote Creek project request. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the

agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, the exemption issued pursuant to section 7(o)(2) may have lapsed and any further take could be a violation of section 4(d) or 9. Consequently, we recommend that any operations causing such take cease pending reinitiation.

If you have any questions about this biological opinion, please submit your questions to [fw8VenturaSection7@fws.gov](mailto:fw8VenturaSection7@fws.gov) and include the Service's file number 2024-0100544-S7-001.

Sincerely,

**STEPHEN HENRY** Digitally signed by STEPHEN HENRY  
Date: 2024.09.10 11:36:24 -07'00'

Stephen P. Henry  
Field Supervisor

cc:

Antal Szijj, U.S. Army Corps of Engineers  
Anthony Spina, National Marine Fisheries Service  
Steve Gibson, California Department of Fish and Wildlife

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## PERSONAL COMMUNICATIONS

- Gilliland, Ken, Biologist/Project Manager, Padre Associates, Ventura, California. 2016.  
Electronic mail to Chris Dellith, Senior Fish and Wildlife Biologist, US Fish and Wildlife Service, Ventura, California. Subject: Old CRLF Report, dated June 1, 2016.
- Lieske, Patrick, Forest Wildlife Biologist, US Forest Service, Solvang, California. 2021.  
Electronic mail to Dou-Shuan Yang, Biologist, US Fish and Wildlife Service, Sacramento, California. Subject: California red-legged frog data – Matilija Creek Watershed, dated October 1, 2021.



# CDFW STREAMBEAD ALTERATION AGREEMENT - SAMPLE



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

EDMUND G. BROWN, Jr., Governor  
CHARLTON H. BONHAM, Director



**SAMPLE**

September 19, 2017

Glenn Shephard  
Ventura County Watershed Protection District  
800 South Victoria Avenue  
Ventura, CA 93009  
[Glenn.Shephard@ventura.org](mailto:Glenn.Shephard@ventura.org)

Dear Mr. Shephard:

**Final Lake or Streambed Alteration Agreement  
Notification No. 1600-2017-0153-R5  
Coyote Creek Debris Removal**

Enclosed is the final Streambed Alteration Agreement (Agreement) for the Coyote Creek Debris Removal (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 determined your Project is exempt from CEQA and filed a Notice of Exemption (NOE) on the same date it signed the Agreement.

Under CEQA, the filing of an NOE triggers a 35-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 Brock Warmuth, Environmental Scientist, at 805-962-4698 or by email at [brock.warmuth@wildlife.ca.gov](mailto:brock.warmuth@wildlife.ca.gov).

Sincerely,

Betty Courtney  
Environmental Program Manager I

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
SOUTH COAST REGION  
3883 RUFFIN ROAD  
SAN DIEGO, CALIFORNIA, 92123



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2017-0153-R5  
Coyote Creek

VENTURA COUNTY WATERSHED PROTECTION DISTRICT  
COYOTE CREEK DEBRIS REMOVAL

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Ventura County Watershed Protection District (Permittee) or as represented by Glenn Shephard.

#### **RECITALS**

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on July 24, 2017, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to Fish and Game Code 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 project is located at Coyote Creek, adjacent to Camp Chaffee Road and Casitas Vista Road, in the community of Casitas Springs, County of Ventura, State of California; and can be located using the following: Latitude 34.359127, Longitude -119.316700.

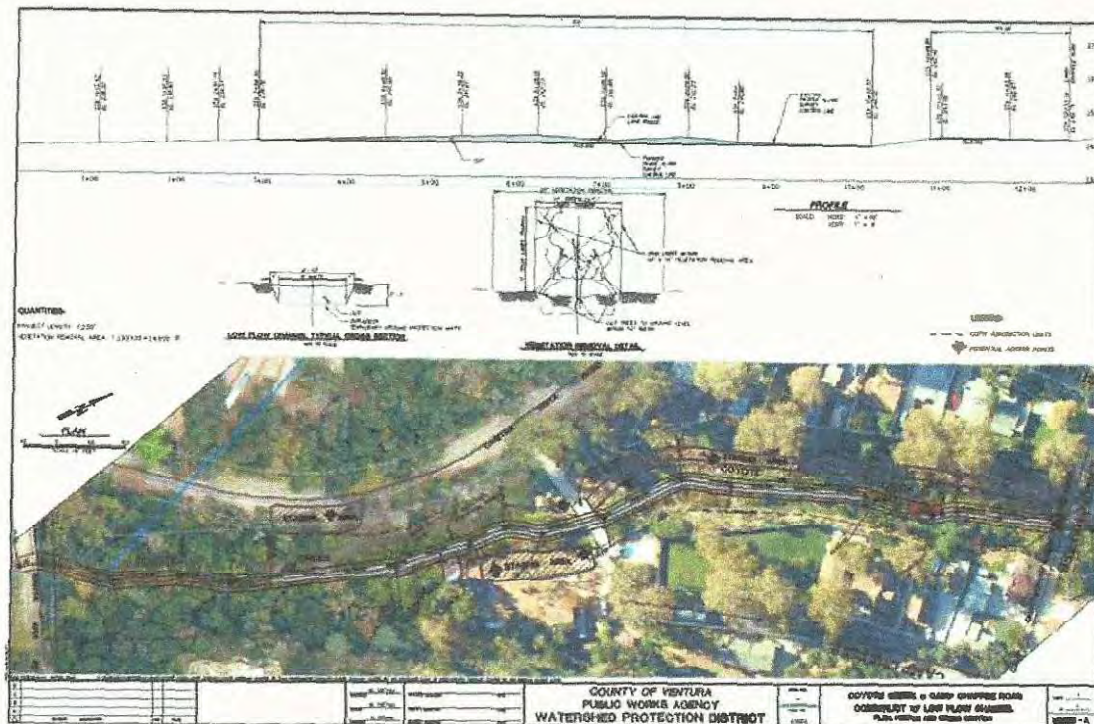
#### **PROJECT DESCRIPTION**

The project is limited to the removal of sediment, debris, and obstructing vegetation within a 1,230 foot long and 20 foot wide section of Coyote Creek. To remove debris in the channel and restore a low-flow channel, Permittee will trim vegetation within a 20-foot wide swath along the centerline from 10 feet upstream of Camp Chaffee Road downstream to Santa Ana Road Bridge. Work shall be conducted using hand tools and small motorized equipment. Dead and downed woody material will be removed. Small

willows less than four inches in diameter and other trees in this area may be cut to ground level, but will not be removed by the roots. Non-woody understory plants and low tree branches, within five feet of the ground surface, outside of the sediment removal area, will be cut to reduce obstructions of flow. To assure proper traffic safety and correct sediment deposition, Permittee will also remove sediments on the upstream side of Camp Chaffee Road for a distance of 10 feet on average, for the width of the concrete crossing. Large upright trees will remain with low branches pruned; saplings will be cut to the ground. Downed woody material within this work area will be cut up and carried out. The 20-foot wide work area along 1,230 linear feet totals 0.57 acre.

Within the central 10 feet of the 20 foot wide vegetation thinning swath, Permittee will use small equipment to remove sediment to form a roughly trapezoidal-shaped channel with a bottom width of eight feet, and 1:1 side slopes. To prevent workers and equipment from sinking in the mud, temporary ground protection mats made from recycled plastic will be placed in the bottom of the channel during work. These mats are 8 feet wide, bolt together for safety, and support up to 80 tons. The maximum depth of excavation is approximately three feet along the centerline. No more than 500 cubic yards of sediment will be removed. The goal is to re-establish a grade of 0.2% along the 1,230 linear feet of channel. About 885 linear feet of channel require the bottom excavation to attain this grade. Within the 0.57 acre work area, approximately 0.25 acre will be affected by grading to remove sediment.

Access into the work area will be from Camp Chaffee Road, and from the creek sides where feasible. Natural openings in the canopy and existing vehicle access areas will be utilized to minimize impacts to riparian vegetation.



## PROJECT IMPACTS

The adverse effects the project had or could have on the fish or wildlife resources identified above include loss of natural bed or bank; change in contour of bed, channel, or bank; change in channel cross-section (confinement or widening); change in composition of channel materials (large woody debris or substrate particle size); soil compaction or other disturbance to soil layer; restriction or increase in sediment transport; increased turbidity; increased sedimentation (chronic or episodic); loss or decline of riparian habitat; decline of vegetative diversity; loss or decline of instream woody material; change to, loss, or decline of natural bed substrate; disruption to nesting birds and other wildlife; and, direct take of terrestrial species.

Existing fish or wildlife resources the project could substantially adversely affect, based on information received from Permittee, include: **Reptiles:** western pond turtle (*Emys marmorata*), two-striped garter snake (*Thamnophis hammondi*); **Amphibians:** California red-legged frog (*Rana aurora draytonii*), Baja California treefrog (*Pseudacris hypochondriaca*); **Birds:** least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii*), acorn woodpecker (*Melanerpes formicivorus*), mourning dove (*Zenaida macroura*), oak titmouse (*Baeolophus inornatus*), orange-crowned warbler (*Oreothlypis [Vermivora] celata*), American crow (*Corvus brachyrhynchos*), Nuttall's woodpecker (*Picoides nuttallii*), downy woodpecker (*Picoides pubescens*), bushtit (*Psaltirparus minimus*), American robin (*Turdus migratorius*), California towhee

(*Melospiza crissalis*), dark-eyed junco (*Junco hyemalis*), wrenit (*Chamaea fasciata*), red-tailed hawk (*Buteo jamaicensis*), Anna's hummingbird (*Calypte anna*); **Mammals:** mule deer (*Odocoileus hemionus*), coyote (*Canis latrans*), raccoon (*Procyon lotor*); **Native Plants:** willows (*salix* spp.), California sycamore (*Platanus racemosa*), coast live oak (*Quercus agrifolia*), Fremont cottonwood (*Populus fremontii* ssp. *Fremontii*), black walnut (*Juglans californica*), poison oak (*Toxicodendron diversilobum*), California blackberry (*Rubus ursinus*), cattail (*Typha* sp.); and all other aquatic and wildlife resources in the area, including the riparian vegetation which provides habitat for such species in the area.

#### **Permanent Impacts**

Permittee proposed project-related activities shall result in 0.57 acre of permanent impacts to CDFW jurisdiction including 0.32 acre of vegetation thinning of willow riparian scrub, and 0.25 acre of vegetation, sediment, and debris removal.

### **MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

#### **1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

1.1 Notification Prior to Work. Permittee shall notify CDFW, in writing, at least five days prior to initiation of project-related activities. Notification shall be sent to the email address: [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@wildlife.ca.gov), Reference # 1600-2017-0153-R5.

1.2 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 at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.

1.3 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.

1.4 Pre-project Briefing. Permittee shall provide copies of the Agreement to and hold a pre-construction meeting/briefing with 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, concerning the conditions of this Agreement.

1.5 Designated Biologist. At least five days prior to initiating ground- or vegetation-disturbing activities, Permittee shall submit in writing the name, qualifications, business address, and contact information for the Designated Biologist to CDFW for written approval. The Designated Biologist shall be knowledgeable and experienced in the biology and natural history of local fish and wildlife resources and be able to identify those resources present at the project site. The Designated Biologist shall be

responsible for monitoring all project activities, including construction and any ground- or vegetation-disturbing activities in areas subject to this Agreement. The Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this Agreement, and/or to order any reasonable measure to avoid or minimize impacts to fish and wildlife resources.

**1.5.1 Designated Biologist Qualifications.** The Designated Biologist(s) shall be qualified with at least 3 years of handling and identification experience for the following: Rare Plants, Bats, Nesting Birds, Reptiles, Aquatic Invasive Species, and Construction Monitoring. For the purpose of nesting bird surveys, a qualified avian biologist must have at least 3 years of field experience directly related to finding nests and monitoring them for the specific purpose of determining breeding status, egg incubation, chick maturity, and estimating fledge date.

**1.6 Weather Limitations.** Permittee's activities within the stream shall be restricted to periods of low rainfall (less than  $\frac{1}{4}$  inch per 24-hour period) and periods of dry weather (with less than a 40 percent chance of rain). All erosion control measures shall be initiated prior to all storm events. Permittee shall monitor the National Weather Service (NWS) 72-hr forecast for the project area. Weather forecasts shall be documented upon request by CDFW.

**1.7 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>.

**1.8 Regional Water Quality Control Board.** CDFW believes that permit/certification(s) may be required from the Regional Water Quality Control Board for this project. Should such permits/certification(s) be required, a copy shall be submitted to CDFW.

## **2. Avoidance and Minimization Measures**

In addition to Permittee-proposed BMP's, Permittee shall implement the following measures during project-related activities, to avoid or minimize adverse impacts to fish and wildlife resources identified above.

**2.1 Protected Species.** This Agreement does not authorize take, incidental or otherwise, of any protected species. For the purpose of this Agreement, "protected species" means the following:

- 2.1.1** A species fully protected under state law; A candidate species or species listed as threatened or endangered under the California Endangered Species

Act (CESA; Fish & G. Code § 2050 *et seq.*) and/or the Endangered Species Act (ESA; 16 U.S.C. § 1531 *et seq.*); A state-listed rare plant species; Or any other species for which take is prohibited under state or federal law.

2.2 Reporting Observations to CNDDB. Permittee shall be responsible for reporting all observations of threatened/endangered species or of species of special concern to CDFW's Natural Diversity Data Base within ten (10) days of sighting.

2.3 Incidental Take Permit. An Incidental Take Permit (ITP) from CDFW may be required if the project, project construction, or any project-related activity during the life of the project will result in "take," as defined by the Fish and Game Code, of any species protected by CESA [Fish & G. Code, §§86, 2080, 2081, subd. (b) (c)]. If there is a potential for take, Permittee may request consultation with CDFW and obtain the necessary state permits and/or submit plans to avoid any impacts to the species. Consultation with USFWS or NOAA would be required to receive take authority for federal threatened and endangered species.

2.4 Pre-construction surveys. A qualified biological monitor shall be present during work in all CDFW jurisdictional areas during initial Project-related activities to monitor for fish and wildlife encountered in the path of Project-related activities. If any wildlife is encountered during the course of construction, said wildlife shall be allowed to leave the construction area unharmed. Silt fence or other exclusionary fencing may be installed to prevent species from entering disturbance area. The biological monitor shall have authority to temporarily stop construction activities until the species is determined to be out of harm's way. If any listed wildlife is encountered, Permittee shall contact the CDFW immediately or proceed as described in the Incidental Take Permit for the project.

2.5 California red-legged frog. In the event California red-legged frog are found in the project area, biological monitors shall direct and inspect all vegetation and sediment removal and dewatering activities. 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, piece by piece, under the direct supervision of the biological monitor or qualified biologist. If California red-legged frog enters the work area, all work shall stop until the qualified biologist relocates the animal or it leaves on its own. Only the qualified biologist shall handle and relocate California red-legged frog. Any sightings and/or injuries of this species shall be immediately reported to the Department.

### **Bird Surveys**

2.6 Least Bell's Vireo and Southwestern Willow Flycatcher. Prior to any work commencing during the nesting season, focused surveys following USFWS protocol for least Bell's vireo and southwestern willow flycatcher shall be conducted from April 10<sup>th</sup>

through July 31<sup>st</sup>. The physical extent of the survey area shall be approved by CDFW prior to commencing surveys and shall include indirectly affected and buffer areas. Survey results shall be submitted in writing to CDFW for review.

2.6.1 Survey protocol for least Bell's vireo can be found at: <http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LeastBellsVireoQuals.pdf>.

2.6.2 Survey protocol for southwestern willow flycatcher can be found at: <http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf>.

2.6.3 If least Bell's vireo or southwestern willow flycatcher are present, the following avoidance measures shall be implemented:

2.6.3.1 No construction shall take place between March 15<sup>th</sup> and September 15<sup>th</sup>.

2.6.3.2 If least Bell's vireo or southwestern willow flycatcher are present and the avoidance measure identified above cannot be implemented, take may result, and an Incidental Take Permit (ITP) should be applied for and obtained from the CDFW.

2.7 Removal of Trees/Shrubs During Fall/Winter Months. To avoid potential impact to bats and tree nesting birds, removal or trimming of designated trees and shrubs should occur during the time period of September 1<sup>st</sup> to February 1<sup>st</sup>.

2.8 Nesting and/or Breeding Bird Surveys. Permittee shall not remove or otherwise disturb vegetation on the project sites from February 1<sup>st</sup> to September 1<sup>st</sup> to avoid impacts to breeding/nesting birds, unless it complies with an approved nesting bird management plan. If the nesting season cannot be avoided and construction activities must occur between February 1<sup>st</sup> to September 1<sup>st</sup> (January 1<sup>st</sup> to June 30<sup>th</sup> for Raptors), Permittee shall do one of the following to avoid and minimize impacts to nesting birds:

1) Implement default 300 foot minimum avoidance buffers for all passerine birds and 500 foot minimum avoidance buffer for all raptor species. The breeding habitat/nest site shall be fenced and/or flagged in all directions, and this area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project.

2) Develop a project specific Nesting Bird Management Plan. The site-specific nest protection plan shall be submitted to CDFW for review and approval. The Plan should include detailed methodologies and definitions to enable a CDFW

approved biologist to monitor and implement nest-specific buffers based on topography, vegetation, species, and individual bird behavior. This Nesting Bird Management Plan shall be supported by a Nest Log which tracks each nest and its outcome. The Nest Log will be submitted to CDFW at the end of each week.

3) Permittee may propose an alternative plan for avoidance of nesting birds for CDFW concurrence.

**2.9 Migratory Birds.** Be advised, migratory nongame native bird species and their nests are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. § 10.13). Sections 3503, 3503.5, 3011, and 3513 of the California Fish and Game Code prohibit take of all birds and their nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).

### **Habitat Protection**

**2.10 Perimeter Fencing.** To prevent unintended impacts to environmentally sensitive areas, fencing shall be placed around the perimeter of all sensitive resources that are adjacent to project-related work areas but not part of the project itself. To ensure that wildlife movement is not impeded, permeable wildlife-friendly fencing shall be used.

**2.11 Hours of Operation and Lighting.** Permittee's construction activities shall take place during daylight hours only. No night work is authorized.

### **Turbidity and Siltation**

**2.12 Erosion Control Measures.** Permittee shall utilize erosion control measures throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river, stream, or lake. No plastic netting of any kind shall be used for this project. Any type of erosion control blanket or other product shall be weed-free. If netting is to be used, it must be flexible (e.g., "soft" hemp) so that snakes or other animals do not become trapped in the netting.

**2.13 Silt Control.** Permittee shall utilize silt control measures throughout all phases of the project where silt and/or earthen fill threaten to enter a river, stream, or lake. Silt control structures shall be monitored for effectiveness and shall be repaired or replaced as needed. Work activities shall begin on the downstream portion of the stream working upstream to prevent additional silt/debris from entering the stream.

**2.14 Excavation Spoils.** No castings or spoil from the excavation operations shall be placed on the stream side of the Project site. Spoil storage sites shall not be located within a stream, where spoils can be washed back into a stream, or where it will cover aquatic or riparian vegetation.

**2.15 Erosion Control Plantings.** To prevent further erosion within the stream, the Permittee shall plant willow cuttings in areas of potential erosion and in areas that have gaps within the tree canopy.

### **Equipment and Access**

**2.16 Authorized Vehicles.** Vehicles shall not be driven through or motorized equipment operated within the wetted portion of the stream.

**2.17 Diversion Plan.** Permittee shall submit for approval a water diversion plan to CDFW **PRIOR** to commencing work activities. The diversion plan shall include detailed drawings; step-by-step installation and removal method; materials to be used; appropriate fish screen design; timing of diversion; operations and maintenance plan; inspection and repair plan; outlet protection; contingency plan for high flows; sediment management; aquatic species and habitat protection; and flow re-establishment methodology. The diversion plan shall not include the use of concrete or any kind of slurry mix. If CDFW determines the diversion plan impacts the resources beyond what has been authorized in this Agreement, additional mitigation may be required. Permittee shall resolve all CDFW comments prior to initiation of project activities. Permittee may not commence diversion of water without the explicit approval from CDFW.

**2.18 Channel Screen.** A fish-friendly screen shall be placed at the upstream end of the diversion channel at all times. The screen shall prevent any native fish and other aquatic species from entering the diversion channel. During the months of steelhead smolt migration (March-July), the screen shall be frequently checked, cleaned and maintained so that it functions properly. The screen should be durable, and ideally, should be constructed of stainless steel and have pores no larger than a quarter-inch. The screen should be placed at an angle, and somewhat perpendicular to the flow so that natural water velocity will run across the screen at an angle and aid in removing algae, leaf litter, and other debris as well as prevent the impingement of fish.

**2.19 Screen According to Specific Plan - Diversions up to 40 cfs.** The diversion pump shall be fitted with a fish screen meeting the criteria of CDFW and the National Marine Fisheries Service (NOAA Fisheries). A modified version of January, 1997 NOAA Fisheries criteria, including the May 9, 1996 Addendum which CDFW has agreed to use for anadromous fish bearing streams for diversions under 40 cubic feet per second (cfs), is as follows:

2.19.1 The screen shall be designed with an approach velocity of no more than 0.1 feet per second, provided that the screen is self-cleaning. The screen shall be designed with an approach velocity of no more than 0.2 feet per second if it is not self-cleaning. Approach velocity is the velocity of the water perpendicular to the screen face measured three inches in front of the screen surface.

2.19.2 A self-cleaning screen shall have at least 2.5 square feet of submerged

screen material for each cfs (450 gallons per minute) of the maximum diversion rate. A screen which is not self-cleaning shall have at least 5 square feet of submerged screen material for each cfs of the maximum diversion rate.

2.19.3 Screens shall be installed on intakes wherever water is drafted. Intakes shall be at least 6 inches above the bottom of the channel and away from submerged vegetation.

2.19.4 Round openings in the screen shall not exceed 3/32" diameter, square openings shall not exceed 3/32" measured diagonally, and slotted openings shall not exceed 0.069 inches in width.

2.19.5 The screen may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Screen material shall provide a minimum of 27% open area, but more open area is better. Stainless steel is recommended to minimize corrosion problems.

2.19.6 The screen shall be designed to distribute the flow uniformly over the entire screen area.

2.19.7 The screen face generally should be parallel to the flow of the stream.

2.19.8 The screen shall be cleaned as frequently as necessary to prevent the approach velocity from exceeding 0.4 feet per second.

2.19.9 The screen shall be kept in good repair, and shall be used whenever water is being diverted.

2.19.10 Permittee is advised to consult with the National Marine Fisheries Service to ensure that all their design criteria are being met.

2.20 Bypass Channel for Downstream Passage of Aquatic Biota. A bypass pipe or channel acceptable to CDFW shall be installed and maintained to allow screened fish to be returned safely to the stream.

2.21 Maintain Aquatic Life. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code Section 5937.

#### **Pollution, Litter and Cleanup**

2.22 Pollution Compliance. 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.

**2.23 Pick Up Debris.** Permittee shall remove all human generated debris, such as yard and farm cuttings, broken concrete, construction waste, garbage and trash that Permittee places within, or where they may enter, the stream. Permittee shall pick up all debris and waste daily.

#### **Exotic Species Removal and Control**

**2.24 Decontamination of Project Equipment.** Permittee shall decontaminate all tools, waders and boots, and other equipment that will enter the streambed 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, 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 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 equipment/clothing is removed from the site, used within a different waterbody, and returned to the project site.

**2.25 Decontamination of Vehicles.** Permittee shall decontaminate vehicles 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 watercraft engines and all areas that could contain standing water (e.g. storage compartments) for a minimum of 10 minutes. Following the hot water wash, Permittee shall dry all vehicles and other large equipment as thoroughly as possible.

**2.26 Decontamination Sites.** Permittee shall perform decontamination of vehicles, watercraft, and other project gear and equipment in a designated location where runoff can be contained and not allowed to pass into CDFW jurisdictional areas and other sensitive habitat areas.

**2.27 Unlawful to Possess Dreissenid Mussels.** Pursuant to California Code of Regulations (CCR) Title 14 Section 681 and Fish and Game Code 2301 it is unlawful for any person to possess, import, ship, or transport in the state live or dead dreissenid mussels except as authorized in a permit issued by the CDFW. A Restricted Species Permit pursuant to CCR Title 14 Section 671.1 is required for the collection, possession, and/or research of live dreissenid mussels.

**2.28 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: [http://www.dfg.ca.gov/invasives/inv\\_reporting/sightingReport.html](http://www.dfg.ca.gov/invasives/inv_reporting/sightingReport.html)) and photos to the Invasive Species Program by email at: [invasives@wildlife.ca.gov](mailto: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

**2.29 Pest Species.** Permittee, shall remove any non-native vegetation *Arundo* (*Arundo donax*), tamarisk (*Tamarix* spp.), eucalyptus-immature <3"DBH (*Eucalyptus* spp.), pepper tree (*Schinus molle*), castor bean (*Ricinus communis*), African umbrella sedge (*Cyperus* spp.), mustards (*Brassica* spp.), tree tobacco (*Nicotiana glauca*), periwinkle (*Vinca minor*), and pampas grass (*Cortaderia selloana*) from the work area and shall dispose of it in a manner and a location which prevents its reestablishment.

**2.30 Arundo donax.** Giant cane (*Arundo*), if present, shall be cut to a height of six inches or less, and the stumps painted with an herbicide approved for aquatic use within five minutes of cutting. Herbicides shall be applied at least three times during the period of May 1<sup>st</sup> to October 1<sup>st</sup> to eradicate these plants. Where proposed methods for removing giant cane deviate from this procedure, Permittee shall present the alternate methods, in writing, to CDFW for review and approval, prior to implementation.

**2.31 Exotics Removal and Control Mechanisms.** Whenever possible, invasive species shall be removed by hand or by hand-operated power tools rather than by chemical means. Where control of non-native vegetation is required within the bed, bank, or channel of the stream, the use of herbicides is necessary, and there is a possibility that the herbicides could come into contact with water, Permittee shall employ only those herbicides, such as Rodeo/Aquamaster (Glyphosate), which are approved for aquatic use. If surfactants are required, they shall be restricted to non-ionic chemicals, such as Agri-Dex, which are approved for aquatic use.

**2.32 Herbicide Application.** Permittee shall apply any herbicides in accordance with state and federal law. No herbicides shall be used where Threatened or Endangered species occur. No herbicides shall be used when wind velocities are above 5 miles per hour or when nesting birds could be exposed.

### **3. Reporting Measures**

**3.1 Reporting.** All surveys, pre and post construction notifications, monitoring reports and any other required communication between Permittee and CDFW shall be submitted in digital format. The digital copy shall be submitted to [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@wildlife.ca.gov) and [Brock.Warmuth@wildlife.ca.gov](mailto:Brock.Warmuth@wildlife.ca.gov), Reference # 1600-2017-0153 -R5.

**3.2 Final Construction Report.** Permittee shall provide a final construction report to CDFW no later than **two weeks after the project is fully completed** including color photographs of before and after project-related activities, including the surrounding staging areas. The construction report at a minimum shall contain pre-project photographs, total amount of area impacted post-project, and post-project photographs; post-project photographs illustrating location of erosion control and canopy gap plantings. This shall be submitted to the CDFW no later than December 31, 2017.

**3.3 Compliance.** CDFW shall verify compliance with protective measures to ensure the accuracy of Permittee's construction and erosion control plantings. CDFW may, at its sole discretion, review relevant documents maintained by Permittee, interview 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.

## **CONTACT INFORMATION**

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

### To Permittee:

Glenn Shephard  
Ventura County Watershed Protection District  
800 South Victoria Avenue  
Ventura, CA 93009  
[Glenn.shephard@ventura.org](mailto:Glenn.shephard@ventura.org)

### To CDFW:

Department of Fish and Wildlife  
South Coast Region  
3883 Ruffin Road  
San Diego, California 92123  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2017-0153-R5  
Email: [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@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), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into

water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 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 submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and 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 submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and 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 Fish and Game Code section 1605, subdivision (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 submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and 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, 2017, 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, subdivision (a)(2) requires.

#### **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.

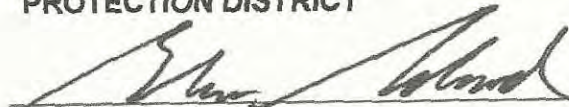
#### **AUTHORIZATION**

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 Fish and Game Code section 1602.

#### **CONCURRENCE**

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR VENTURA COUNTY WATERSHED  
PROTECTION DISTRICT**

  
Glenn Shephard

9/14/17  
Date


Designated Representative

FOR DEPARTMENT OF FISH AND WILDLIFE

Betty Courtney  
Betty Courtney  
Environmental Program Manager

Sept. 19, 2017  
Date

Prepared by: Brock Warmuth  
Environmental Scientist



RWQCB 401 PERMIT

## Los Angeles Regional Water Quality Control Board

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### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

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**Effective Date:** September 20, 2024

**Program Type:** Fill/Excavation

Reg. Meas. ID:	457255
Place ID:	895218
WDID:	4WQC40124082
NWP:	37
USACOE#:	SPL-2024-00385
R4 File No:	24-082

**Project Type:** Restoration Bank Stabilization and/or Adjacent Upland Area

**Project:** Coyote Creek Pilot Channel

**Applicant:** Ventura County Watershed Protection District

**Applicant Contact:** David Fleisch  
Assistant Director  
Ventura County Public Works Agency  
800 South Victoria Avenue  
Ventura, CA 93009  
Phone: (805) 654-2373  
Email: David.Fleisch@ventura.org

**Applicant's Agent:** Jill Jennings  
Environmental Planner  
Ventura County Watershed Protection District  
800 South Victoria Avenue  
Phone: (805) 654-2036  
Email: Pam.Lindsey@ventura.org

**Water Board Staff:** Man Voong  
Environmental Scientist  
320 West 4th Street, Suite 200  
Los Angeles, California 90013  
Phone: (213) 576-6690  
Email: Man.Voong@waterboards.ca.gov

#### Water Board Contact Person:

If you have any questions, please call the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) Staff listed above or (213) 576-6600 and ask to speak with the Water Quality Certification and Wetlands Unit Program Manager. When corresponding via email, please include our general email: [RB4-401Certification@waterboards.ca.gov](mailto:RB4-401Certification@waterboards.ca.gov).

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NORMA CAMACHO, CHAIR | SUSANA ARREDONDO, EXECUTIVE OFFICER

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**Attachment D** 40 CFR Part 121.7 Compliance

**I. Order**

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of the Ventura County Watershed Protection District (hereinafter Permittee) for the Project. This Order is for the purpose described in the application and supplemental information submitted by the Permittee. The application was received on June 7, 2024. The application was deemed complete on September 10, 2024.

**II. Public Notice**

The Los Angeles Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from June 18, 2024 to the effective date of the Order. The Los Angeles Water Board did not receive any comments during the comment period.

**III. Project Purpose**

The purpose of the project is to restore channel capacity in Coyote Creek, through the acquisition and demolition of one property, excavation of a pilot channel, and removal of riparian vegetation and sediment restricting flow, and restore of access across the Camp Chaffee Road.

**IV. Project Description**Background

The project is located along Coyote Creek, a tributary to the Ventura River, near the unincorporated area of Casitas Springs in Ventura County. Coyote Creek is a tributary to Lake Casitas, and from the Casitas Dam, traverses about 2.5 miles to the confluence at the Ventura River. The creek in the project area is soft-bottom with ephemeral flow. The presence of the dam has altered sediment transports and flow patterns to the Creek, resulting in reoccurring problems with flooding of the residential properties along Coyote Creek due to sediment aggradation and heavy vegetation that has substantially reduced the capacity of the creek and prevents adequate drainage to the Ventura River. Most recently, high precipitation in 2023 resulted in high flows exceeded the existing creek flow capacity and damaged properties and flooded and destroyed the Camp Chaffee Road crossing. The Project aims to resolve these issues by restoring channel capacity and restoring access across the Camp Chaffee Road.

Project activities

The project will occur in phases and including property acquisition, demolition, and channel clearing.

For channel restoration, 3,300 linear feet of the creek will be cleared of vegetation and 2,400 linear feet will be cleared of sediment obstruction. The work will be conducted from downstream to upstream, starting approximately 1,060 feet downstream of the Santa Ana Road bridge and continuing approximately 500 feet upstream of the Camp Chaffee Road cross to the end of the project boundary.

Project activities will occur in stages along the creek in different segments or “reaches”, with the downstream portion designated as Reach 1, the upstream portion being Reach 5.

- a. Reach 1 starts downstream end of the project and stretches to Santa Ana bridge, spanning 879 linear feet or approximately 1.50 acres. Work in the reach will consist of removing vegetation impeding surface flow, and will temporarily impact 0.37 acres of stream channel.
- b. Reach 2 starts northeast of the Santa Ana Road bridge and continue upstream to the bridge, measuring 621 linear feet or approximately 1.17 acres. Work in this reach will consist of removing sediment through excavation to restore channel capacity, and vegetation removal that will occur concurrently with Reach 1. Vegetation removal in this reach will temporarily

- impact 0.04 acres of stream channel. Sediment removal will permanently impact 0.14 acres of stream channel.
- c. Reach 3 starts from the Santa Ana Road bridge and continues upstream for 500 linear feet and approximately 0.98 acre. The work in this reach will consist of vegetation removal and removal of sediment through excavation to restore channel capacity. Vegetation removal in this reach will temporarily impact 0.04 acres of stream channel. Sediment removal will permanently impact 0.13 acres of stream channel.
  - d. Reach 4 spans the entire property planned for acquisition, measuring 300 linear feet and approximately 0.89 acres. Property structures act as a barrier along Coyote Creek and are planned for demolition. The demolition includes but is not limited to, the concrete driveway and access bridge, the home, garage, deck, all sheds, railings, swimming pool, septic tank and leach line, any remaining landscaping, some fencing, and trash. The construction of a temporary crossing and ramp across the creek will be necessary to support demolition activities once the existing bridge has been removed. Work in this segment also includes vegetation removal and sediment removal through excavation. Afterwards, the property will be left as open space. Vegetation removal in this reach will temporarily impact 0.02 acres of stream channel. Sediment removal will permanently impact 0.07 acres of stream channel.
  - e. Reach 5 starts from the planned buyout property upstream to the end of the project site, which includes the Camp Chaffee Road crossing, measuring 1,000 linear feet and 1.72 acres. Work in the reach includes removing vegetation and debris, and excavation of sediment to restore the channel capacity. The Camp Chaffee Road crossing will be cleared of muddy material deposited on top of the concrete roadway to restore access to the community. Vegetation removal in this reach will temporarily impact 0.10 acres of stream channel and 0.01 acre of wetland. Sediment excavation will permanently impact 0.44 acres of stream channel and 0.19 acres of wetlands.

The new channel cross section will have a 25-foot-wide bottom width, with 2:1 (horizontal to vertical) sloped banks on either side, and will be excavated approximately five feet lower than the existing grade. Currently, the ordinary high water mark is about 12-15 feet wide. Post project, it will be about 35 feet wide, including the 25-foot-wide bottom plus about five feet of each of the lower banks, increasing waters of the state from about 0.94 acre to about 1.93 acre. Within this new channel bottom, the low flows are expected to meander within it as fine material sediments move through the area.

The 2:1 channel side slopes extend the work area up to 10 feet on both sides of the new bottom, depending on the topography. All vegetation within this approximately 45-foot-wide work area will be removed. Up to an additional 15 feet on both sides of this excavation area will be needed for equipment access within the project work area boundaries. Vegetation will be cut to ground level, if needed; it is expected to recover quickly from the roots. The project will restore channel dimensions to convey an approximately 25-year return interval storm (Q25), or about 1,386 cubic feet per second flows. For comparison, a Q2 is 170 cfs, a Q5 is 380 cfs, and Q100 is 4,830 cfs. An estimated 22,000 cubic yards of sediment will be removed and disposed of offsite. The total excavated area will be 2.94 acres within a total work area of 6.26 acres.

Prior to work occurring, surface water will be diverted or dewatered using the guidelines in the approved Ventura County Water Diversion Guide

Seeding of the disturbed work areas, with the exception of the restored channel bottom, will occur upon grading completion to hasten vegetation cover to minimize erosion. The seed mix will be hand

broadcast onto the rough ground surface and raked or brushed in. Species potentially available and appropriate for the seeding comprise primarily herbaceous perennials. Many are already present and expected to naturally recruit. Areas that are affected by the project activities resulting in a gap in the tree canopy will be revegetated with willows (*Salix* sp.)

Following project completion, the channel, including sediment removal and vegetation management will be maintained for the duration of the Order. During that time, the channel will be observed annually but channel excavation and vegetation management by the County will be conducted sporadically and only when needed. Afterwards, the landowners will be responsible for maintenance in the reaches not owned by the County (Reaches 2, 3, and 5). Maintenance activity occurring after expiration of the Order will require additional permitting.

Project activities are projected to start after issuance of the permits and last approximately three and half months

## V. Project Location

The project is located along Coyote Creek, a tributary to the Ventura River, near the unincorporated area of Casitas Springs in Ventura County. The project area runs parallel to Casitas Vista Road starting approximately 500 feet upstream of Camp Chaffee Road and extending about 1,060 feet downstream of the Santa Ana Road bridge. The Casitas Dam is located about two miles upstream of Camp Chaffee Road.

<u>Latitude</u>	<u>Longitude</u>
34° 21' 37.49" N	119° 19' 5.63"W
34° 21' 37.85" N	119° 19' 5.05" W
34° 21' 16.94" N	119° 18' 41.27"W
34° 21' 15.57" N	119° 18' 41.57" W

Maps showing the Project location is found in Attachment A of this Order.

## VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Los Angeles Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plan (Basin Plan) for the region and other plans and policies which may be accessed online at: [http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Receiving Water: Coyote Creek  
(Hydrologic Unit Code: 180701010105)

Designated Beneficial Uses: MUN\*, GWR, FRSH, REC-1, WARM, COLD, WILD, MIGR, SPWN, WET

\* Conditional Beneficial Use

## VII. Description of Direct Impacts to Waters of the State

Total Project fill/excavation quantities for all impacts are summarized in Table 1. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition only.

Table [1]: Total Project Fill/Excavation Quantity									
Aquatic Resource Type	Temporary Impact <sup>1</sup>			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY <sup>2</sup>	LF	Acres	CY	LF	Acres	CY	LF
Stream Channel	0.57			0.78		3,300			
Wetland	0.01			0.19					

## VIII. Avoidance and Minimization

The Project qualified as a tier 2 project and the Project is the least environmentally damaging practicable alternative. (State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, section IV.A.1.h).

Other alternatives considered but not preferred to the final project included the following:

The Ventura County Public Works Agency, Roads and Transportation Department has been investigating bridge designs to increase the conditions under which Camp Chaffee Road can be safely traversed while allowing for water flow in Coyote Creek. The existing crossing has a buried shallow low flow culvert. Additional small culverts are expected to routinely clog with sediment. An elevated bridge structure would necessitate the purchase of three to four properties for demolition, and would obstruct flow.

Another option explored including the purchase of all properties (~25 to 30) along Coyote Creek in the floodway and floodplain, costing \$2 million each, for demolition. However, this option may be infeasible due to homeowners' reluctance to sell.

The last option evaluated include installation of a flood control facility along Coyote Creek through the residential area. This estimate was prepared shortly after the winter storms in 2023. The designs considered included an open concrete box or trapezoidal channel with rock riprap slope protection

<sup>1</sup> Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

<sup>2</sup> Cubic Yards (CY); Linear Feet (LF)

with access roads on both sides designed to carry flow all the way to the Ventura River. The cost for this alternative was estimated to be over \$63 million, including purchase of rights of way and construction. The box would require annual routine maintenance to remove the accumulated debris. This option would result in the loss of riparian habitat.

#### **IX. Compensatory Mitigation**

The Permittee has agreed to provide compensatory mitigation described in section XIV.H for temporary impacts resulting in temporal loss and/or degradation of ecological condition.

No compensatory mitigation was required for permanent impacts because the Project will increase acreage of waters of the state from about 0.94 acre to about 1.93 acre.

#### **X. California Environmental Quality Act (CEQA)**

The Los Angeles Water Board has determined that the Project is exempt from review under CEQA pursuant to California Water Code of Regulations, title 14, section 15061. Specifically, the issuance of this Order and the activities described herein meet the exemption criteria under California Code of Regulations title 14, section(s) 15269 (a) and (c), Emergency Projects. Additionally, the Los Angeles Water Board concludes that no exceptions to the CEQA exemption apply to the activities approved by this Order.

#### **XI. Petitions for Reconsideration**

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

#### **XII. Fees Received**

The fee amount for the proposed project has been determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), and was calculated as Fill and Excavation Discharges with the dredge and fill fee calculator.

<b>Table 2: Record of Fees Received</b>		
<b>Date Received</b>	<b>Check No.</b>	<b>Amount</b>
4/23/2024	1042201191	\$2,985
		\$40,710*
	<b>Total</b>	<b>\$43,695</b>

\*\$40,710 is still owed as of the date of the Order

#### **XIII. Findings**

1. This Order is adopted pursuant to section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (Cal. Water Code § § 13000, et seq.). Discharges to waters of the state are prohibited except when in accordance with Water Code section 13264. Notwithstanding any determinations made by the U.S. Army Corps or other federal agency pursuant to 40 C.F.R. section 121.9, dischargers must comply with the entirety of this Order

because the Order also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ.

2. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
3. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law.
4. In response to a suspected violation of any condition of this Order, the Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.
5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project.
6. This Order does not provide coverage under the Construction General Permit. As applicable, dischargers shall maintain compliance with conditions described in, and required by, the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-009-DWQ; NPDES No. CAS000002 as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, and any amendments thereto) (General Construction Permit). Enrollment in the Construction General Permit may be required for construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development or sale. For projects with ground disturbing activities that require enrollment in the Construction General Permit, dischargers shall maintain compliance with conditions described in, and required by the Permit. For ground disturbing activities that do not require enrollment in Order No. 2009-0009-DWQ, project plans included with the application shall include appropriate erosion and sediment control measures as described in the *Best Management Practices* Section below.
7. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a "take" will result from any act authorized under this Order held by the discharger, the discharger must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The discharger is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
8. This Order includes monitoring and reporting requirements pursuant to Water Code section 13267. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required under this Order are sufficient to protect beneficial uses and water quality objectives.

The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring, in-field measurements, and notification reporting.

#### **XIV. Conditions**

The Los Angeles Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions. This Order provides reasonable assurance that the Project authorized under this Order will comply with state and federally approved water quality requirements, provided that the following conditions are adhered to.

##### **A. Authorization**

Impacts to waters of the state shall not exceed quantities shown in Table 1.

##### **B. Reporting and Notification Requirements**

Requirements for the content of these reporting and notification types are detailed in Attachment C, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment C, which must be signed by the Permittee or an authorized representative.

##### **1. Project Reporting**

- a. Annual Reporting:** The Permittee shall submit an Annual Report each year on the anniversary of Project effective date. Annual Reporting requirements are detailed in Attachment C. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Permittee.

##### **2. Project Status Notifications**

- a. Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities.
- b. Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete,<sup>3</sup> and no further Project activities will occur. This request shall be submitted to Los Angeles Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, Los Angeles Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period and associated annual fees.

##### **3. Conditional Notifications and Reports:** The following notifications and reports are required as appropriate.

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<sup>3</sup> Completion of post-construction monitoring shall be determined by Los Angeles Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria.

**a. Accidental Discharges of Hazardous Materials<sup>4</sup>**

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

- i. As soon as (A) the Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
  - first call – 911 (to notify local response agency)
  - then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911Lastly, follow the required OES procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web Page](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/) (<https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/>)
- ii. Following notification to OES, the Permittee shall notify the Los Angeles Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, or delivered written notice.
- iii. Within five (5) working days of notification to the Los Angeles Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

**b. Violation of Compliance with Water Quality Standards:** The Permittee shall notify the Los Angeles Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, or delivered written notice.

- i. Examples of noncompliance events include: lack of any reporting in a timely manner, lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the state, water contact with uncured concrete, and exceedances of limits for the analytes for *In-Water Work or Diversions* listed below.
- ii. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

**c. In-Water Work or Diversion**

- i. If stream diversion will be necessary, the Permittee shall submit to Los Angeles Water Board staff a Stream Diversion Plan, with a diagram and a narrative description of the method to divert the stream and associated Best Management Practices (BMPs) for acceptance, at least 30 days in advance of any stream diversion.

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<sup>4</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

- ii. During stream diversion or in-water work, water quality monitoring shall be conducted.
  - iii. The Permittee shall notify the Los Angeles Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be via telephone, e-mail, or delivered written notice.
- d. Modifications to Project:** Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Los Angeles Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform Los Angeles Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order.
- e. Transfer of Property Ownership:** This Order is not transferable in its entirety or in part to any person or organization except after receiving certification for the Project from the Los Angeles Water Board. In addition:
- i. The Permittee must notify the Los Angeles Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the Los Angeles Water Board at least 30 days prior to the transfer of ownership.
  - ii. Until such time as a new Order has been issued, the Permittee shall continue to be responsible for all requirements set forth in this Order.

### C. Water Quality Monitoring

1. **General:** If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete).
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Los Angeles Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.
3. **In-Water Work or Diversions:**  
For projects involving planned work in water or stream diversions, a water quality monitoring plan shall be submitted to Los Angeles Water Board staff for acceptance at least 30 days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan.

During planned work in water or stream diversions, any discharge(s) to waters of the state shall conform to the following water quality standards:

- a. Oil and Grease. Waters shall not contain oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on

objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.

- b. Dissolved Oxygen. At a minimum, the mean annual dissolved oxygen concentration of all waters shall be greater than 7 mg/L, and no single determination shall be less than 5.0 mg/L, except when natural conditions cause lesser concentrations.

The dissolved oxygen content of all surface waters designated as both COLD and SPWN shall not be depressed below 7 mg/L as a result of waste discharges.

- c. pH. The pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges. Ambient pH levels shall not be changed more than 0.5 units from natural conditions as a result of waste discharge.
- d. Turbidity. Downstream TSS shall be maintained at ambient levels. Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Sampling shall be conducted in accordance with Table 3 sampling parameters.<sup>5</sup>

<b>Table [3]: Sample Type and Frequency Requirements</b>			
Parameter	Unit of Measurement	Type of Sample	Minimum Frequency
Oil and Grease	N/A	Visual	Continuous
Dissolved Oxygen	mg/L & % saturation	Grab	Daily for the first week, weekly, thereafter
pH	Standard Units	Grab	Daily for the first week, weekly, thereafter
Turbidity	NTU	Grab	Daily for the first week, weekly, thereafter
Temperature	°F (or as °C)	Grab	Daily for the first week, weekly, thereafter

Baseline sampling shall be conducted at a minimum of one location within the project boundary for each phase. All other sampling shall take place at a minimum of two locations. In streams or flowing water, the sample locations shall be upstream and downstream of the Project. Results of the analyses shall be submitted to the Los Angeles Water Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. A summary of results shall discuss the analysis. Every measurement not meeting the compliance limits shall be accompanied by an

<sup>5</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Los Angeles Water Board staff. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

explanation, the actions taken to correct the degradation to waters, and addressed in *Violation of Compliance with Water Quality Standards* report described above.

4. **Post-Construction:** Visually inspect the Project site during the rainy season 5 years to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the Los Angeles Water Board staff member overseeing the Project within three (3) working days. The Los Angeles Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

#### **D. Standard Conditions**

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, chapter 28, Article 6 commencing with sections 3867-3869, inclusive. Additionally, the Los Angeles Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Los Angeles Water Board determines that: the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. § 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.

#### **E. General Compliance**

1. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Los Angeles Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
2. Authorization under this Order is granted based on the application information submitted, including engineering plans, specifications, and technical reports. Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

**F. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment B of this Order.
2. The Permittee shall grant Los Angeles Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  1. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
  2. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
  3. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
  4. Sample or monitor for the purposes of assuring Order compliance.
3. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
4. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
5. Lake and Streambed Alteration Agreement - The Permittee shall submit a signed copy of the Department of Fish and Wildlife's lake and streambed alteration agreement to the Los Angeles Water Board immediately upon execution and prior to any discharge to waters of the state.
6. This Order shall expire five (5) years from date of this Order. The Applicant shall submit a complete application at least 90 days prior to termination of this Order if renewal is requested.

**G. Best Management Practices****1. Dewatering and/or Stream Diversion**

- a. The Permittee shall follow water diversion methods and procedures established in the Permittee's Water Diversion Guide.
- b. Baseline water quality shall be monitored PRIOR to installation of any water diversion, daily for the first 5 days the diversion is in place, and weekly thereafter. The Permittee environmental staff shall be contacted to contract for/conduct monitoring.
- c. Fish mortality associated with stream flow diversion or dewatering shall be reported by environmental staff to Regulatory Agencies within 24 hours of discovery.

**2. Fugitive Dust**

- a. The Permittee shall minimize the areas disturbed at any one time by clearing, grading, earth moving, or excavation operations to prevent excessive dust.
- b. The Permittee shall wet grading and excavation areas prior to and during work.
- c. The Permittee shall cover all truck loads, as required by California Vehicle Code §23114.

- d. The Permittee shall prevent fugitive dust (via treatment) on all graded and excavated material, exposed soil areas, stockpiles, including unpaved parking and staging areas, and other active portions of the construction site.
- e. The Permittee staff shall weekly monitor contractor graded and/or excavated inactive areas of the construction site for dust stabilization.
- f. No grading/earth work shall take place during periods of high winds (i.e., wind speed sufficient to cause fugitive dust to impact adjacent properties) to prevent excessive fugitive dust.
- g. The Permittee shall use rumble strips or track out devices where vehicles enter and exit unpaved roads onto paved road.
- h. All on site construction roads that have a daily traffic volume of more than 50 daily trips shall be stabilized as to minimize transport of earthen material from the site.
- i. There shall be at least one qualified staff on site each work day to monitor the provisions of the Fugitive Dust Mitigation Plan and any other applicable fugitive dust rules, ordinances, or conditions.
- j. Personnel involved in grading operations shall be advised to wear respiratory protection in accordance with California Division of Occupational Safety and Health Regulations.
- k. All project construction operations shall be conducted in compliance with all applicable APCD Rules and Regulations with emphasis on Rule 50 (Opacity) and Rule 51 (Nuisance).

### **3. Site Management**

- a. Prior to mobilization, the contractor shall clearly delineate the project limits and prohibit any project-related work outside those boundaries.
- b. Project-related vehicles shall observe a 5-mile-per-hour speed limit within the unpaved limits of the project.
- c. All food-related trash items such as wrappers, cans, bottles, and food scraps generated during the proposed project shall be disposed of in closed containers only and removed daily from the project site.
- d. If vehicle or equipment maintenance is necessary, it shall be performed in the designated staging areas.
- e. Heavy equipment shall be operated in accordance with standard BMPs. Equipment used on-site shall be properly maintained to avoid leaks of oil, fuel, or residues. Provisions shall be in place to remediate any accidental spills.
- f. Areas of temporary disturbance shall be minimized to the extent practicable. Staging and laydown areas shall be limited to unvegetated and previously disturbed sites consisting of ruderal vegetation, ornamental landscaping, and outside of the dripline of protected trees.
- g. Materials shall be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage on the ground or into a watercourse. Material storage shall be at least 100 feet from flowing water that could come in contact with Coyote Creek. Any material/spoils from project activities shall be located and stored 100 feet from potential jurisdictional areas as practicable. Project materials and spoils shall be protected from stormwater run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate.

### **4. Invasive Species and Soil Borne Pathogens**

- a. Invasive Plants:

- i. The Permittee shall remove invasive plant species in a manner that prevents propagation.
    - ii. The Permittee shall not stockpile invasive vegetation where materials would wash downstream or allowed to propagate.
  - b. New Zealand mudsnail and other non-native species, including plant seed:
    - i. The Permittee shall wash mobile equipment used in surface water that may have incidental soil attached (e.g., dozers, excavators, discing equipment, wheeled loaders and motor graders) using on-site or off-site hot pressure wash.
    - ii. The Permittee shall wash equipment that infrequently crosses the wetted channel and does not have incidental soil attached (e.g., herbicide trailers, chipper, water pumps [hand carried and trailer-mounted], mowers and motor vehicles) using on-site or off-site hot or cold pressure wash.
    - iii. Hand tools, boots, and wetted portions of power tools shall be cleaned before leaving the site using the following procedure:
      - 1. Remove any accumulated mud/soil from the article to be cleaned.
      - 2. Fill a portable plastic tub (child's swimming pool, or equivalent) to a depth allowing complete submersion of the boots or tools with a 4 percent solution (5 fluid ounces per gallon) of a commercial disinfectant (GS High Dilution Disinfectant 256, Spartan Chemical Company).
      - 3. Scrub all surfaces with a brush.
      - 4. Let soak in the disinfectant for approximately 10 minutes.
      - 5. Rinse with potable water; and dispose of the used disinfectant solution in a sewer or upland area where it cannot enter surface waters.
    - iv. Materials that may be transported between work sites may include sand bags, K-rail, diversion pipe, water hoses and concrete forms (wood). Sand bags immersed in surface waters cannot be fully cleaned, and shall be emptied of sand (on-site or the Permittee's maintenance yard) and the bag deposited in a proper trash receptacle.
      - 1. The Permittee shall wash hard surfaced materials on-site using a portable hot pressure washer OR take them to the nearest O & M washing facility (Saticoy or Moorpark) for a hot pressure wash.
      - 2. Care shall be taken to remove all attached soil or sediment and fully contact all surfaces.

## **5. Sediment Control and Stabilization/Erosion Control**

- a. The Permittee shall prevent the discharge of silt-laden water or pollutants downstream when removing sediments, vegetation, and trash from channels.
- b. The Permittee shall install BMPs including silt barriers, sand bags, straw bales, as needed.
- c. The Permittee shall follow the Water Diversion Guide if a flow diversion is installed.

## **6. Wildlife and Special Status Species**

- a. California Red-Legged Frog:
  - i. Any steep-walled excavations that may trap California red-legged frogs that will be left overnight in suitable habitat (Ventura River, San Antonio Creek) shall be covered.
  - ii. Approved biologists working in California red-legged frog habitat shall follow the Declining Amphibian Task Force Fieldwork Code of Practice.

- iii. An approved biologist shall conduct daily pre-work surveys. All life stages potentially affected by work shall be relocated.
- iv. The relocation site shall be the shortest distance to suitable habitat not affected by work.
- v. The Biologist shall maintain detailed descriptions of relocated individuals to determine if the same individuals are recaptured.
- vi. The Biologist shall train all personnel and contractors regarding species and work type/boundaries.
- vii. The Biologist shall remain on site until all frogs have been relocated, worker education is complete, and vegetation removal has been completed.
- viii. The Biologist shall permanently remove non-native aquatic species, when feasible.
- b. Least Bell's Vireo (LBV)/SW Willow Flycatcher (SWFL):
  - i. If feasible, work shall be conducted between Sept 16 and Feb 28 in areas with LBV suitable habitat within 500 feet of the work area.
  - ii. From March 1 to September 15, an approved biologist shall conduct surveys for LBV/SWFL prior to work with habitat within 500 feet.
  - iii. If a LBV/SWFL nest is detected, a minimum 500 foot buffer between work and nest shall be set, unless otherwise agreed to by USFWS. The Biologist shall monitor the nest during work.
  - iv. Removal of willow and cottonwood trees over 8 inch diameter at breast height shall be avoided in suitable LBV/SWFL habitat.

## **7. Stormwater**

- a. The project shall comply with the local regulations associated with the Los Angeles Water Board's Municipal Stormwater Permit issued to Los Angeles and Ventura County and co-permittees under NPDES No. CAS004004 and Waste Discharge Requirements Order No. R4-2021-0105 or subsequent order.
- b. If not enrolled in the General Construction Permit, the Permittee shall develop and implement a site-specific Storm Water Pollution Prevention Plan (SWPPP) and pre and post Qualifying Precipitation Event reports as described in the General Construction Permit.

## **H. On-site Mitigation for Temporary Impacts**

1. The Permittee shall restore all areas of temporary impacts to waters of the state and all project site upland areas of temporary disturbance which could result in a discharge of waters of the state.
2. The restoration plan shall be submitted for written acceptance by Los Angeles Water Board staff within (ninety days (90)) of issuance of this Order. The restoration plan shall provide the following: a schedule; plans for grading of disturbed areas to pre-project contours; planting palette with plant species native to the Project area; seed collection location; invasive species management; performance standards; and maintenance requirements (e.g. watering, weeding, and replanting).
3. The Los Angeles Water Board may extend the monitoring period upon a determination by Los Angeles Water Board Executive Officer that the performance standards have not been met or are not likely to be met within the monitoring period.

4. If restoration of temporary impacts to waters of the state is not completed within 90 day of the impacts, compensatory mitigation may be required to offset temporal loss of waters of the state

Table [4]: Required Project Mitigation Quantity for Temporary Impacts								
Aquatic Resource Type	Mit. Type <sup>6</sup>	Units	Method <sup>7</sup>					
			Est.	Re-est.	Reh.	Enh.	Pres.	Unknown
Stream Channel	PR	Acres		0.57				
Wetland	PR	Acres		0.01				

#### XV. Water Quality Certification

I hereby issue the Order for the Coyote Creek Pilot Channel, 4WQC40124082 certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.

**Jenny Newman**  
 Digitally signed by Jenny Newman  
 Date: 2024.09.20 12:06:26 -07'00'

for Susana Arredondo  
 Executive Officer  
 Los Angeles Water Quality Control Board

September 20, 2024

Date

<sup>6</sup> Mitigation type for onsite restoration of temporary impacts is Permittee Responsible (PR).

<sup>7</sup> Methods: establishment (Est.), reestablishment (Re-est.), rehabilitation (Reh.), enhancement (Enh.), preservation (Pres.). Unknown applies to advance credits with an unknown method and or location.



# ASBESTOS AND LEAD SURVEY REPORT



*S&J Environmental Testing  
1464 Madera Rd. #N202, Simi Valley, Ca 93065*

## **LIMITED BULK SAMPLING FOR ASBESTOS CONTAINING MATERIALS**

**S&J Project No: 131-25-037**  
**Subject: 575 Casitas Vista**  
**AE Number: 25-029**

March 6, 2025

### **Client Information:**

Ventura County Public Works  
Re: Coyote Creek Demolition Project

### **Property Information:**

**575 Casitas Vista Property**  
575 Casitas Vista Rd.  
Ventura, CA 93001

**Service: Limited Asbestos Survey**

**Date: February 10, 2025**

**S&J Representative: Joshua Mier (CSST 19-6544; LRC #00006338).**

**Supervising CAC: Shane Blanchard (CAC-22-7131; CDPH 26822)**

**Client: Ventura County Public Works**

**Total Samples Collected: 62**

**Total Asbestos Bulk Samples Collected: 62**

**Requested and/or Affected Area: Main House, Guest House, Red Storage Cabin, and Shed**

**Asbestos Abatement Needed: No**

**This is a limited survey, sampling was limited to the areas and materials which will be impacted by repair/restoration/renovation activities as directed by client and/or representative.**

### **Lab Analysis Method- Micron Environmental Labs (El Monte, Ca)**

Samples collected for asbestos content were analyzed by Environmental Protection Agency (EPA) Method 600/R-93/116 per the Code of Federal Regulations (CFR) Title 40 Part 763.86 using Polarized Light Microscopy (PLM). Paint chip or other surface coating material samples collected for lead content were analyzed by EPA Method SW 846 3050B, EPA 7420.

### **ASBESTOS SURVEY**

#### **Sampling Protocol**

A minimum sample amount per material is collected based on building material type and category (as defined by the EPA), square footage and similarity (homogeneous in color, texture and installation dates). In accordance with EPA protocol, a material is considered to contain asbestos if results of any of the homogenous material samples indicate that asbestos is present. A material shall be considered non asbestos containing only if all samples collected of that material indicate that no asbestos is detected.

Materials containing greater than one percent ( $>1.0\%$ ) asbestos as determined by Polarized Light Microscopy (PLM) methodology are considered to be regulated asbestos-containing materials (ACM) according to the Environmental Protection Agency (EPA). These materials are subject to regulatory provisions under 40 CFR 61.

Materials containing greater than one tenth of one percent ( $>0.1\%$ ) methodology are considered to be a regulated asbestos-containing construction material (ACCM) according to California Occupational Safety and Health Administration (Cal-OSHA). These materials are subject to regulatory provisions under the California Code of Regulations (CCR), Title 8; Section 1529. The amended National Emission Standard for Hazardous Air Pollutants (NESHAP), November 20, 1990, included a requirement that when the asbestos content of a bulk sample material is determined using procedures outlined in the Interim Method and the asbestos content is estimated to be less than 10% by a method other than Point Counting, the parties legally responsible for a building (owner/operator) may (1) elect to assume the amount to be greater than 1% and treat the material as a regulated asbestos-containing material, or (2) require verification of the amount by the Point Counting method. Building Materials containing greater than 0.1% and less than 1% Asbestos, must be abated by a California Licensed Abatement Contractor and must be disposed as hazardous waste unless resubmitted for Point Counting analysis (SCAQMD (South Coast Air Quality Management District) Territories only). The purpose of this procedure is to minimize false negative analysis (reporting the sample as containing less than 1% asbestos for asbestos-containing samples actually containing greater than 1%) and false positives (reporting the sample as containing greater than 1% asbestos for samples containing less than 1% asbestos). Point Counting was included in NESHAP in response to an EPA study that found an unacceptable amount of false negative and false positive analyses by methods outlined in the Interim Method.

#### **Proprietary Note:**

This report contains CONFIDENTIAL INFORMATION and cannot be duplicated or copied under any circumstances without the express permission of S&J Environmental Testing. The purpose of the report is to allow the CLIENT(s)

listed above to evaluate the potential environmental liabilities at the Subject Residence. Any unauthorized reuse of S&J Environmental Testing reports or data will be at the unauthorized user's sole risk and liability.

### Asbestos Sample Results

S&J collected a total of sixty-two (62) bulk samples for asbestos content. In accordance with EPA bulk sampling method protocols, the laboratory must separate all layers within a single sample that may result in additional separate samples for analysis. Analytical results and chain of custody are attached. For sample results and site information, please see attached site diagram.

### Summary of Asbestos Results

MATERIAL	LOCATION	REGULATED LEVELS Y/N	EST. QTY	CONDITION	FRIABLE Y/N
Drywall/Joint Compound	(Main House) Family Room Wall, Kitchen Wall, Pantry Wall, Bedroom #1 Wall, Bedroom #2 Wall	No	3000 SF	Damaged	N/A
Insulation	(Main House) Family Room, Living Room, Bedroom #2	No	2400 SF	Damaged	N/A
Roof Composite	(Main House) Roof (x5)	No	3000 SF	Good	N/A
Concrete Foundation	(Main House) Foundation (x3)	No	2700 SF	Good	N/A
Drywall/Joint Compound	(Guest House) Garage Wall, Kitchen Wall, Bedroom Wall	No	1600 SF	Damaged	N/A
Vapor Barrier	(Guest House) Garage (x2), Entry	No	300 SF	Good	N/A
Roof Composite #1	(Guest House) Roof (x3)	No	800 SF	Good	N/A
Roof Composite #2	(Guest House) Roof (x5)	No	2200 SF	Good	N/A
Roof Composite #3	(Guest House) Roof (x3)	No	2200 SF	Good	N/A
Penetration Mastic	(Guest House) Roof (x3)	No	20 SF	Good	N/A
Brick Mortar	(Guest House) Exterior Wall (x3)	No	1200 SF	Good	N/A
Drywall	(Shed) Ceiling (x3)	No	12 SF	Good	N/A
Insulation	(Shed) Wall (x2), Ceiling	No	40 SF	Good	N/A
Roof Composite	(Shed) Roof (x3)	No	32 SF	Good	N/A
Vapor Barrier	(Red Storage Cabin) Interior Wall (x3)	No	300 SF	Good	N/A
Roof Composite	(Red Storage Cabin) Roof (x3)	No	600 SF	Good	N/A

\*Drywall/Joint Compound & Plaster/Skim Coat are considered to be a single material as the materials can't be separated from each other. Do not attempt to cut around or separate the materials, they are to be treated as a single system.

Proprietary Note:

### **Results/Recommendations**

**The materials sampled do not contain regulated levels of asbestos.** Asbestos abatement will not be required for the sampled materials in the listed affected areas. This survey does not pertain to the entire building or residence. S&J recommends additional sampling takes place if additional areas require removal/demolition outside of the areas listed.

### **Disposal**

Any materials containing greater than ( $>$ ) 1.0% asbestos are subject to regulations under EPA (National Emission Standards for Hazardous Air Pollutants [NESHAP]) governing the storage, transportation and disposal of hazardous waste. Any materials containing less than ( $<$ ) 1.0% asbestos may be properly bagged and disposed of as construction debris. If no asbestos is present (and no lead-based paint is present), the material may be disposed of as construction debris. Building Materials containing greater than 0.1% and less than 1% Asbestos, must be abated by a California Licensed Abatement Contractor and must be disposed as hazardous waste unless resubmitted for Point Counting analysis (SCAQMD (South Coast Air Quality Management District) Territory only). In SCAQMD territory, sample results showing greater than one tenth of one percent ( $>0.1\%$ ) are also considered to be hazardous waste.

### **Limitations**

S&J is committed to providing quality consulting services. However, asbestos survey and lead inspection work is not an exact science. Because there is the possibility of unforeseen or unexpected property, field and/or general conditions, beyond S&J's control, that could potentially affect our work, and/or if there is present concern for the safety of our employees, our consultants, occupants or the public at the site, and/or if there are property insurance constraints, we must qualify the services we provide with the following limitations:

- Although reasonable effort was made to sample all accessible suspect materials which will be impacted during the repairs/restoration activities of the damaged areas, additional suspect materials could be located between walls, in voids, or in other concealed areas. Caution should be exercised regarding these areas. In the event that additional materials are found which have not been sampled, S&J recommends that work stops until those materials can be sampled for asbestos and/or lead content.
- In addition, sampling and laboratory analysis constraints typically hinder the investigation. S&J does not warrant, guarantee or profess to have the ability to locate or identify all asbestos- containing materials in a facility.
- Confined spaces, and areas determined by S&J's personnel as unsafe to access, are excluded from the scope of work.
- S&J is not, and has no responsibility as, a generator, operator, treater, storer, transporter or disposer of hazardous materials or waste found or identified as a result of S&J's work.
- S&J does not guarantee or warrant that the facility or workplace is safe; nor does S&J's involvement in this property relieve the Client, building owner/operator or tenant of any continuing responsibility of providing a safe facility or living space.
- This report was based on those conditions observed on the day the field evaluation was accomplished. In the event that changes in the nature of the property have occurred, or additional relevant information about the

Proprietary Note:

This report contains CONFIDENTIAL INFORMATION and cannot be duplicated or copied under any circumstances without the express permission of S&J Environmental Testing. The purpose of the report is to allow the CLIENT(s)

listed above to evaluate the potential environmental liabilities at the Subject Residence. Any unauthorized reuse of S&J Environmental Testing reports or data will be at the unauthorized user's sole risk and liability.

property is subsequently discovered, the findings contained in this report may not be valid unless these changes and additional relevant information are reviewed and the conclusion of this report is modified and verified in writing.

- S&J is not responsible for areas within the work area that were covered up and/or sealed during the testing/inspection process. S&J will only address what is readily accessible during the inspection. If all readily accessible areas are deemed acceptable during our inspection, our final conclusion will strictly be based on laboratory results.
- S&J makes no representation or warranty that the testing described in the service provided will result in the elimination of asbestos, lead mold, and/or other hazardous materials contamination from the areas described in the scope of work of that such hazards contamination will not reappear in such areas or other areas of the property.
- S&J makes no representation or warranty regarding hazards contamination in areas, including adjoining areas, not specified in the scope of work, nor that such hazards contamination will not migrate to areas described in the scope of work following the completion of or during the scope of work.

Thank you very much for choosing S&J Environmental Testing.

Sincerely,

**S&J Environmental Testing**



Shane Blanchard  
Certified Asbestos Consultant 22-7131



Joshua Scott Mier  
CDPH Sampling Technician # LRC-00006338  
Cal-OSHA CSST # 19-6544

Attachments: Analytical Data/Chain of Custody, Site Map Diagram.

**Proprietary Note:**

This report contains CONFIDENTIAL INFORMATION and cannot be duplicated or copied under any circumstances without the express permission of S&J Environmental Testing. The purpose of the report is to allow the CLIENT(s) listed above to evaluate the potential environmental liabilities at the Subject Residence. Any unauthorized reuse of S&J Environmental Testing reports or data will be at the unauthorized user's sole risk and liability.

## ATTACHMENT A

### ANALYTICAL DATA, CHAIN OF CUSTODY, SITE MAP DIAGRAM



#### Proprietary Note:

This report contains CONFIDENTIAL INFORMATION and cannot be duplicated or copied under any circumstances without the express permission of S&J Environmental Testing. The purpose of the report is to allow the CLIENT(s) listed above to evaluate the potential environmental liabilities at the Subject Residence. Any unauthorized reuse of S&J Environmental Testing reports or data will be at the unauthorized user's sole risk and liability.

State of California  
Division of Occupational Safety and Health  
**Certified Site Surveillance Technician**



**Joshua S Mier**  
Name

Certification No. **19-6544**

Expires on **06/12/25**

This certification was issued by the Division of Occupational Safety and Health as authorized by Sections 7180 et seq. of the Business and Professions Code.

State of California  
Division of Occupational Safety and Health  
**Certified Asbestos Consultant**

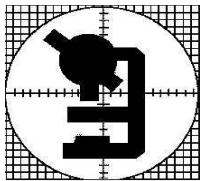


**Shane M Blanchard**  
Name

Certification No. **22-7131**

Expires on **06/24/25**

This certification was issued by the Division of Occupational Safety and Health as authorized by Sections 7180 et seq. of the Business and Professions Code.



# Micron Environmental Labs, Inc.

3565 Lexington Ave. TEL: 626-454-4782  
El Monte, CA 91731 FAX: 626-602-9661

Reference Analytical Methods: 40CFR763 App E to Subpart E

EPA 600/R-93/116

NIST-NVLAP Lab Code No. 200294-0

California ELAP Waterboards Cert. No. 2297

IAS No. ELP-327

## Test Report Bulk Asbestos by PLM

Micron Report No. 25004827

Report Date: February 14, 2025

Cust. Project: VC Public Works - Main House (3) - 575 Casitas Vista Rd.  
575 Casitas Vista Rd., Ventura, CA 93001

Microscopist: Alfredo Barajas

Customer: Shane Blanchard  
S & J Environmental  
1464 Madera Rd. #N202  
Simi Valley, Ca 93065

Date Collected: 2/10/2025

Date Received: 2/13/2025

Date Analyzed: 2/13/2025

No. of Samples: 16

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
A1 1087183 Layer#: 1 Sample Color: white	Drywall Main House Family Room E Wall	No	2% Cellulose 3% Fibrous Glass 95% Mineral Filler	
Analyst Comments:				
A1 1087183 Layer#: 2 Sample Color: white	Joint Compound Main House Family Room E Wall	No	100% Mineral Filler	X
Analyst Comments:				
A2 1087184 Layer#: 1 Sample Color: white	Drywall Main House Kitchen S Wall	No	2% Cellulose 3% Fibrous Glass 95% Mineral Filler	
Analyst Comments:				
A2 1087184 Layer#: 2 Sample Color: white	Joint Compound Main House Kitchen S Wall	No	100% Mineral Filler	
Analyst Comments:				
A3 1087185 Layer#: 1 Sample Color: white	Drywall Main House Pantry E Wall	No	2% Cellulose 3% Fibrous Glass 95% Mineral Filler	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025  
Micron Report No.: 25004827

Microscopist: Alfredo Barajas

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>A3</b> 1087185 Layer#: 2 Sample Color: white	Joint Compound Main House Pantry E Wall	No	100% Mineral Filler	
Analyst Comments:				
<b>A4</b> 1087186 Layer#: 1 Sample Color: white	Drywall Main House Bedroom #1 N Wall	No	2% Cellulose 3% Fibrous Glass 95% Mineral Filler	
Analyst Comments:				
<b>A4</b> 1087186 Layer#: 2 Sample Color: white	Joint Compound Main House Bedroom #1 N Wall	No	100% Mineral Filler	
Analyst Comments:				
<b>A5</b> 1087187 Layer#: 1 Sample Color: white	Drywall Main House Bedroom #2 W Wall	No	2% Cellulose 3% Fibrous Glass 95% Mineral Filler	
Analyst Comments:				
<b>A5</b> 1087187 Layer#: 2 Sample Color: white	Joint Compound Main House Bedroom #2 W Wall	No	100% Mineral Filler	
Analyst Comments:				
<b>B6</b> 1087188 Layer#: Sample Color: yellow	Insulation Main House Family Room (E)	No	100% Fibrous Glass	
Analyst Comments:				
<b>B7</b> 1087189 Layer#: Sample Color: pink	Insulation Main House Living Room (S)	No	100% Fibrous Glass	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025  
Micron Report No.: 25004827

Microscopist: Alfredo Barajas

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>B8</b> 1087190 Layer#: Sample Color: pink	Insulation Main House Bedroom #2 (W)	No	100% Fibrous Glass	
Analyst Comments:				
<b>C9</b> 1087191 Layer#: Sample Color: black	Roof Composite Main House (Ext. Roof) (N)	No	40% Fibrous Glass 20% Mineral Filler 40% Organic Binders	X
Analyst Comments:				
<b>C10</b> 1087192 Layer#: Sample Color: black	Roof Composite Main House (Ext. Roof) (S)	No	40% Fibrous Glass 20% Mineral Filler 40% Organic Binders	
Analyst Comments:				
<b>C11</b> 1087193 Layer#: Sample Color: black	Roof Composite Main House (Ext. Roof) (W)	No	40% Fibrous Glass 20% Mineral Filler 40% Organic Binders	
Analyst Comments:				
<b>C12</b> 1087194 Layer#: Sample Color: black	Roof Composite Main House (Ext. Roof) (SW)	No	40% Fibrous Glass 20% Mineral Filler 40% Organic Binders	
Analyst Comments:				
<b>C13</b> 1087195 Layer#: Sample Color: black	Roof Composite Main House (Ext. Roof) (E)	No	40% Fibrous Glass 20% Mineral Filler 40% Organic Binders	
Analyst Comments:				
<b>D14</b> 1087196 Layer#: Sample Color: grey	Concrete Foundation Main House	No	100% Mineral Filler	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025

Micron Report No.: 25004827

Microscopist: Alfredo Barajas

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
D15 1087197 Layer#: Sample Color: grey	Concrete Foundation Main House	No	100% Mineral Filler	
Analyst Comments:				
D16 1087198 Layer#: Sample Color: grey	Concrete Foundation Main House	No	100% Mineral Filler	
Analyst Comments:				

Microscopist: 

The limit of detection for this test method is less than one percent (<1%) asbestos by calibrated visual area estimate.



S&J Environmental Testing

Chain of Custody

Tel: 805.558.3699

1464 Madera Rd. #N202  
Simi Valley, Ca 93065

Results to: Labs@SJEnvironmental.net

TAT Requested

Next  
DAY

JOB NAME: VC Public Works - Main House (3) - 575 Casitas Vista Rd.

ADDRESS: 575 Casitas Vista Road, Ventura, CA 93001

S&J TECHNICIAN: Joshua Mier

DATE: 02/10/25

W.O. #

HM	Sample #	Sample Location	Sample Description	Cond	SI/LF	Frable Y/N	Start Time	Stop Time	Start Flow (LPM)	Stop Flow (LPM)	Total Volume	Testing Type
A	1	Main House Family Room	(Drywall) E wall	D(400)	3000	No						PLM
A	2	kitchen	- S wall									
A	3	Pantry	E wall									
A	4	Bedroom #1	N wall									
A	5	Bedroom #2	N wall									
B	6	Main House Family Room	Insulation - (E)	D(400)	2400	Yes						
B	7	Living Room	(S)									
B	8	Bedroom #2	(W)									
C	9	Main House (Ext Roof)	Roof Composite (N)	F	3100	No						
C	10		(S)									
C	11		(W)									
C	12		(W)									
C	13		(E)									
D	14	Main House	Concrete Foundation	I	2700	No						
D	15											
D	16											

Relinquished By:

Date/Time:

02/14/25

Page 1 of 1

Received By:

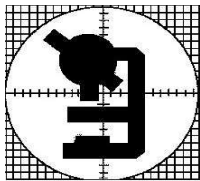
Date/Time:

2/13/25 08:30 AM

Note: Stop 1st Positive PLM? YES or NO (circle)

Send Results to: Labs@SJEnvironmental.net

Nora GARNER



# Micron Environmental Labs, Inc.

3565 Lexington Ave. TEL: 626-454-4782  
El Monte, CA 91731 FAX: 626-602-9661

Reference Analytical Methods: 40CFR763 App E to Subpart E

EPA 600/R-93/116

NIST-NVLAP Lab Code No. 200294-0

California ELAP Waterboards Cert. No. 2297

IAS No. ELP-327

## Test Report Bulk Asbestos by PLM

Micron Report No. 25004846

Report Date: February 14, 2025

Cust. Project: VC Public Works - 575 Casitas Vista Road (2) - Guest House  
575 Casitas Vista Road, Ventura, CA 93001

Microscopist: David Soliman

Customer: Shane Blanchard  
S & J Environmental  
1464 Madera Rd. #N202  
Simi Valley, Ca 93065

Date Collected: 2/10/2025

Date Received: 2/13/2025

Date Analyzed: 2/13/2025

No. of Samples: 23

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>A1</b> 1087199 Layer#: 1 Sample Color: white, brown	Drywall Guest House - Garage	No	10% Cellulose 90% Mineral Filler	
Analyst Comments:				
<b>A1</b> 1087199 Layer#: 2 Sample Color: white	Joint Compound Guest House - Garage	No	100% Mineral Filler	X
Analyst Comments:				
<b>A2</b> 1087200 Layer#: 1 Sample Color: white, brown	Drywall Guest House - Kitchen	No	10% Cellulose 90% Mineral Filler	
Analyst Comments:				
<b>A2</b> 1087200 Layer#: 2 Sample Color: white	Joint Compound Guest House - Kitchen	No	100% Mineral Filler	
Analyst Comments:				
<b>A3</b> 1087201 Layer#: 1 Sample Color: white, brown	Drywall Guest House - Bedroom	No	10% Cellulose 90% Mineral Filler	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025  
Micron Report No.: 25004846

Microscopist: David Soliman

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>A3</b> 1087201 Layer#: 2 Sample Color: white	Joint Compound Guest House - Bedroom	No	100% Mineral Filler	
Analyst Comments:				
<b>B4</b> 1087202 Layer#: Sample Color: dark brown	Vapor Barrier Guest House - Garage	No	80% Cellulose 20% Organic Binders	
Analyst Comments:				
<b>B5</b> 1087203 Layer#: Sample Color: dark brown	Vapor Barrier Guest House - Garage	No	80% Cellulose 20% Organic Binders	
Analyst Comments:				
<b>B6</b> 1087204 Layer#: Sample Color: dark brown	Vapor Barrier Guest House - Entry (E)	No	80% Cellulose 20% Organic Binders	
Analyst Comments:				
<b>C7</b> 1087205 Layer#: Sample Color: brown, black	Roof Comp. #1 (Beige) Guest House (Ext. Roof) (E)	No	20% Cellulose 10% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				
<b>C8</b> 1087206 Layer#: Sample Color: brown, black	Roof Comp. #1 (Beige) Guest House (Ext. Roof) (N)	No	20% Cellulose 10% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				
<b>C9</b> 1087207 Layer#: Sample Color: brown, black	Roof Comp. #1 (Beige) Guest House (Ext. Roof) (W)	No	20% Cellulose 10% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025  
Micron Report No.: 25004846

Microscopist: David Soliman

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>D10</b> 1087208 Layer#: Sample Color: black, grey	Roof Comp. #2 (Main) Guest House (Ext. Roof) (E)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>D11</b> 1087209 Layer#: Sample Color: black, grey	Roof Comp. #2 (Main) Guest House (Ext. Roof) (N)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>D12</b> 1087210 Layer#: Sample Color: black, grey	Roof Comp. #2 (Main) Guest House (Ext. Roof) (W)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>D13</b> 1087211 Layer#: Sample Color: black, grey	Roof Comp. #2 (Main) Guest House (Ext. Roof) (S)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>D14</b> 1087212 Layer#: Sample Color: black, grey	Roof Comp. #2 (Main) Guest House (Ext. Roof) (NW)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>E15</b> 1087213 Layer#: Sample Color: black, brown	Roof Comp. #3 (Black) Guest House (Ext. Roof) (E)	No	20% Cellulose 10% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				
<b>E16</b> 1087214 Layer#: Sample Color: grey, black	Roof Comp. #3 (Black) Guest House (Ext. Roof) (W)	No	20% Cellulose 10% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025  
Micron Report No.: 25004846

Microscopist: David Soliman

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>E17</b> 1087215 Layer#: Sample Color: grey, black	Roof Comp. #3 (Black) Guest House (Ext. Roof) (S)	No	20% Cellulose 10% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				
<b>F18</b> 1087216 Layer#: Sample Color: grey, black	Penetration Mastic Guest House (Ext. House) Roof (N)	No	4% Cellulose 96% Organic Binders	
Analyst Comments:				
<b>F19</b> 1087217 Layer#: Sample Color: grey, black	Penetration Mastic Guest House (Ext. House) Roof (S)	No	4% Cellulose 96% Organic Binders	X
Analyst Comments:				
<b>F20</b> 1087218 Layer#: Sample Color: grey, black	Penetration Mastic Guest House (Ext. House) Roof (S)	No	4% Cellulose 96% Organic Binders	
Analyst Comments:				
<b>G21</b> 1087219 Layer#: Sample Color: grey	Brick Mortar Guest House (Ext. Wall) (W)	No	100% Mineral Filler	X
Analyst Comments:				
<b>G22</b> 1087220 Layer#: Sample Color: grey	Brick Mortar Guest House (Ext. Wall) (W)	No	100% Mineral Filler	
Analyst Comments:				
<b>G23</b> 1087221 Layer#: Sample Color: grey	Brick Mortar Guest House (Ext. Wall) (W)	No	100% Mineral Filler	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025

Micron Report No.: 25004846

Microscopist: David Soliman

Cust ID No.

Asbestos

Micron ID No.

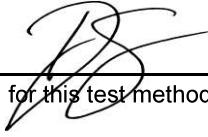
Client Sample Description / Location

Detected?

Analytical Results

QC'd?

Microscopist: \_\_\_\_\_



The limit of detection for this test method is less than one percent (<1%) asbestos by calibrated visual area estimate.



S&J Environmental Testing

Chain of Custody

Tel: 805.558.3699

1464 Madera Rd. #N202  
Simi Valley, Ca 93065

Results to: Labs@SJEnvironmental.net

TAT Requested

Next  
DAY

JOB NAME: VC Public Works - 575 Casitas Vista Road. (2) - Guest House

ADDRESS: 575 Casitas Vista Road. Ventura, CA 93001

S&J TECHNICIAN: Joshua Mier

DATE: 02/10/25

W.O. #

HM	Sample #	Sample Location	Sample Description	Cond	SP/LF	Frangible Y/N	Start Time	Stop Time	Start Flow (LPM)	Stop Flow (LPM)	Total Volume	Testing Type
A	1	Guest House	(Downstairs) Garage	Flow	1000	No						PLM
A	2		Kitchen									
A	3		Bedroom									
D	4	Guest House	Vapor Barrier Garage		300	Yes						
B	5											
B	6		Entry (E)									
C	7	Guest House (Ext. Roof)	Roof Comp. #1 (Asph/E)		800	No						
C	8		(A)									
C	9		(W)									
D	10	Guest House (Ext. Roof)	Roof Comp. #2 (Main/E)		2200	No						
D	11		(N)									
D	12		(W)									
D	13		(S)									
D	14		(NW)									
E	15	Guest House (Ext. Roof)	Roof Comp. #3 (Black/E)		600	NO						
E	16		(W)									
E	17		(S)									

Relinquished By:

Joshua Mier

Date/Time:

02/10/25

Page 1 of 2

Received By:

Nora Gomez

Date/Time:

2/13/25 @ 8:30 AM

Note: Stop 1st Positive PLM?

YES or NO (circle)

YES

NO

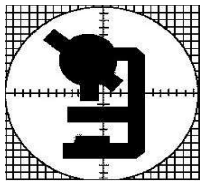
Send Results to: Labs@SJEnvironmental.net



**Results to: Labs@SJEnvironmental.net**

**W.O. #**

**Note:** Stop 1<sup>st</sup> Positive PLM? YES or NO (circle)  
Send Results to: Labs@SJEnvironmental.net



# Micron Environmental Labs, Inc.

3565 Lexington Ave. TEL: 626-454-4782  
El Monte, CA 91731 FAX: 626-602-9661

Reference Analytical Methods: 40CFR763 App E to Subpart E

EPA 600/R-93/116

NIST-NVLAP Lab Code No. 200294-0

California ELAP Waterboards Cert. No. 2297

IAS No. ELP-327

## Test Report Bulk Asbestos by PLM

Micron Report No. 25004858

Report Date: February 14, 2025

Cust. Project: VC Public Works - 575 Casitas Vista Rd. (4)  
575 Casitas Vista Road, Ventura, CA 93001

Microscopist: David Soliman

Customer: Shane Blanchard  
S & J Environmental  
1464 Madera Rd. #N202  
Simi Valley, Ca 93065

Date Collected: 2/10/2025

Date Received: 2/13/2025

Date Analyzed: 2/13/2025

No. of Samples: 9

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>A1</b> 1087236 Layer#: Sample Color: white, brown	Drywall Ceiling Shed (Blue) (Southeast)	No	5% Cellulose 95% Mineral Filler	X
Analyst Comments:				
<b>A2</b> 1087237 Layer#: Sample Color: white, brown	Drywall Ceiling Shed (Blue) (Southeast)	No	5% Cellulose 95% Mineral Filler	
Analyst Comments:				
<b>A3</b> 1087238 Layer#: Sample Color: white	Drywall Ceiling Shed (Blue) (Southeast)	No	1% Cellulose 99% Mineral Filler	
Analyst Comments:				
<b>B4</b> 1087239 Layer#: Sample Color: beige	Insulation Shed (Blue) (Southeast) (Wall)	No	100% Fibrous Glass	
Analyst Comments:				
<b>B5</b> 1087240 Layer#: Sample Color: beige	Insulation Shed (Blue) (Southeast) (Wall)	No	100% Fibrous Glass	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025

Micron Report No.: 25004858

Microscopist: David Soliman

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>B6</b> 1087241 Layer#: Sample Color: beige	Insulation Shed (Blue) (Southeast) (Ceiling)	No	100% Fibrous Glass	
Analyst Comments:				
<b>C7</b> 1087242 Layer#: Sample Color: brown, black	Roof Composite Shed (Blue) (Southeast) (S)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>C8</b> 1087243 Layer#: Sample Color: brown, black	Roof Composite Shed (Blue) (Southeast) (N)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				
<b>C9</b> 1087244 Layer#: Sample Color: brown, black	Roof Composite Shed (Blue) (Southeast) (E)	No	10% Fibrous Glass 30% Mineral Filler 60% Organic Binders	
Analyst Comments:				

Microscopist: 

The limit of detection for this test method is less than one percent (<1%) asbestos by calibrated visual area estimate.



**Tel: 805.558.3699**

**Results to: Labs@SJEnvironmental.net**

DAY

JOB NAME: VCC Public Works - STS (cities Vista & d (A)

**S&J TECHNICIAN:** Joshua Mier

DATE: 02/14/25

W.O. #

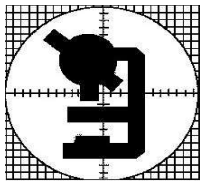
**Note:** Stop 1<sup>st</sup> Positive PLM? YES or NO (circle)

Send Results to: Labs@SJEnvironmental.net

Page / of /

Relinquished By:	<i>[Signature]</i>	Date/Time:	02/10/25
Received By:	<i>[Signature]</i>	Date/Time:	2/13/25 8:30 AM

Sand Results to: [labs@cs.Environmental.net](mailto:labs@cs.Environmental.net)



# Micron Environmental Labs, Inc.

3565 Lexington Ave. TEL: 626-454-4782  
El Monte, CA 91731 FAX: 626-602-9661

Reference Analytical Methods: 40CFR763 App E to Subpart E

EPA 600/R-93/116

NIST-NVLAP Lab Code No. 200294-0

California ELAP Waterboards Cert. No. 2297

IAS No. ELP-327

## Test Report Bulk Asbestos by PLM

Micron Report No. 25004872

Report Date: February 14, 2025

Cust. Project: VC Public Works - Red Storage Cabin (1) - 575 Casitas  
575 Casitas Vista Road, Ventura, CA 93001

Microscopist: David Soliman

Customer: Shane Blanchard  
S & J Environmental  
1464 Madera Rd. #N202  
Simi Valley, Ca 93065

Date Collected: 2/10/2025

Date Received: 2/13/2025

Date Analyzed: 2/13/2025

No. of Samples: 6

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
<b>A1</b> 1087281 Layer#: Sample Color: black	Vapor Barrier Red Storage Cabin (Int.) E Wall	No	80% Cellulose 20% Organic Binders	X
Analyst Comments:				
<b>A2</b> 1087282 Layer#: Sample Color: black	Vapor Barrier Red Storage Cabin (Int.) E Wall	No	80% Cellulose 20% Organic Binders	
Analyst Comments:				
<b>A3</b> 1087283 Layer#: Sample Color: black	Vapor Barrier Red Storage Cabin (Int.) E Wall	No	80% Cellulose 20% Organic Binders	
Analyst Comments:				
<b>B4</b> 1087284 Layer#: Sample Color: black,beige	Roof Comp. (Beige) Red Storage Cabin (Ext.) (N)	No	25% Cellulose 5% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				
<b>B5</b> 1087285 Layer#: Sample Color: black,beige	Roof Comp. (Beige) Red Storage Cabin (Ext.) (W)	No	25% Cellulose 5% Fibrous Glass 20% Mineral Filler 50% Organic Binders	
Analyst Comments:				

# Test Report

## Bulk Asbestos by PLM

Report Date: Feb 14, 2025

Micron Report No.: 25004872

Microscopist: David Soliman

Cust ID No. Micron ID No.	Client Sample Description / Location	Asbestos Detected?	Analytical Results	QC'd?
B6 1087286 Layer#: Sample Color: black,beige	Roof Comp. (Beige) Red Storage Cabin (Ext.) (S)	No	25% Cellulose 5% Fibrous Glass 20% Mineral Filler 50% Organic Binders	

Analyst Comments:

Microscopist: 

The limit of detection for this test method is less than one percent (<1%) asbestos by calibrated visual area estimate.



## S&J Environmental Testing

## Chain of Custody

**Tel: 805.558.3699**

**1464 Madera Rd. #N202  
Simi Valley, Ca 93065**

**Results to: Labs@SJEnvironmental.net**

**TAT Requested**

Next

OAY

**JOB NAME:** VC Public Works - Red Storage Cabin (1) - 575 Caritas vstry Rd.

ADDRESS: 575 Casitas Vista Road. Ventura CA 93001

**S&I TECHNICIAN:** Joshua Mier

DATE: 02/18/25

**W.O. #**

HMI	Sample #	Sample Location	Sample Description	Cond	SF/LF	Eriable Y/N	Start Time	Stop Time	Start Flow (LPM)	Stop Flow (LPM)	Total Volume	Testing Type
A	1	Red Storage Cabin (Int.)	Vapor Barrier, E wall	I	300	Yes						Pm
A	2	↓	↓	↓	↓	↓						↓
A	3	↓	↓	↓	↓	↓						↓
B	4	Red Storage Cabin (Ext.)	Roof Comp. (large) (N)	I	600	No						
B	5	↓	↓	↓	↓	↓						
B	6	↓	↓	↓	↓	↓						

**Relinquished By:**

Received By:

Date/Time:

Date/Time:

Page 1 of 1

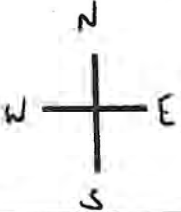
**Note:** Stop 1<sup>st</sup> Positive PLM? YES or NO (circle)

Send Results to: [Labs@SJEnvironmental.net](mailto:Labs@SJEnvironmental.net)

131 - 25 - 037

Inspection Date: 02/16/25

Inspector: J. Miller EMS N/A

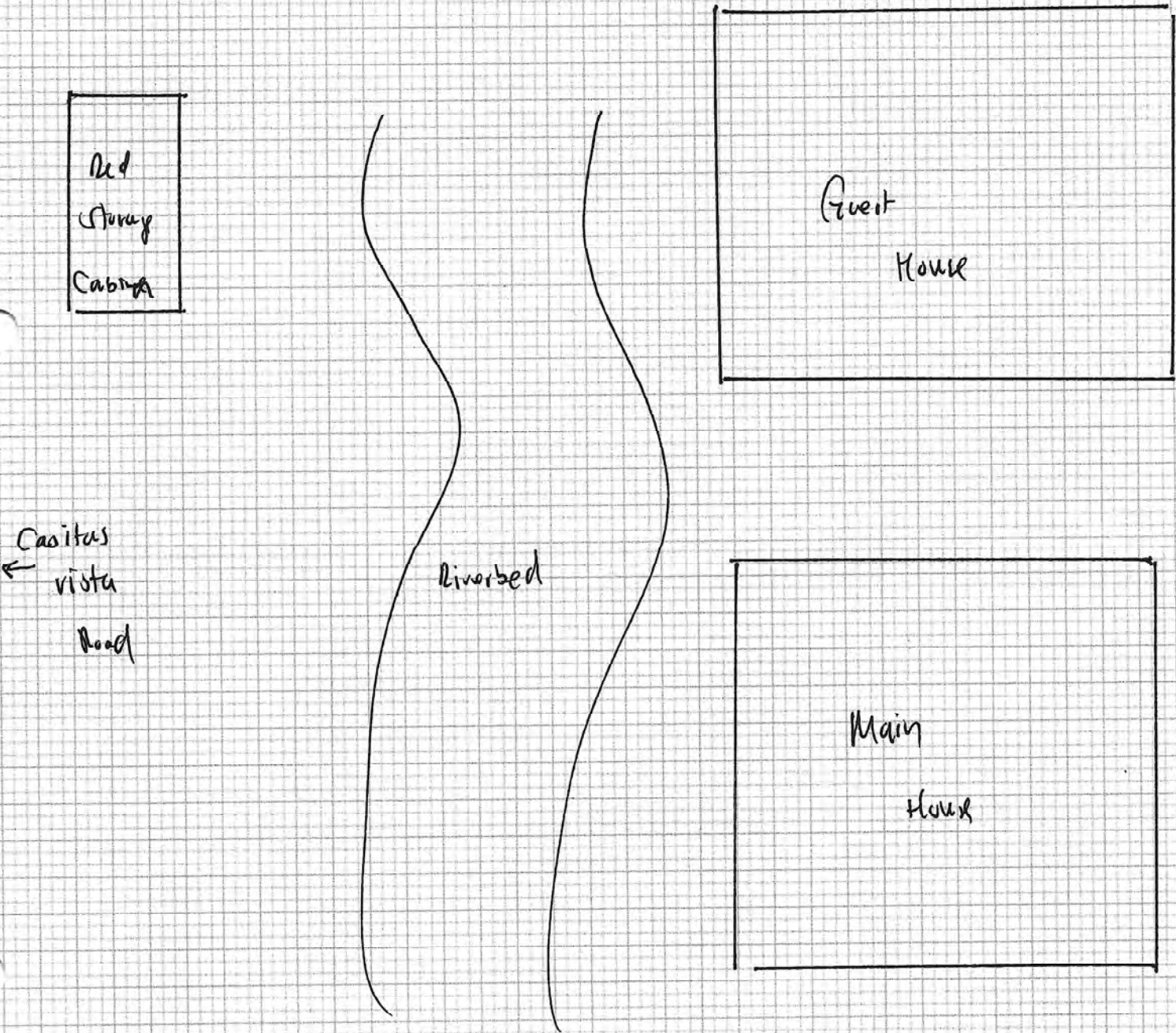


Inspection Requested:

Asbestos Survey.



Client: Ventura County Public Works  
Address: 575 Casitas Vista Road, Ventura CA 93001.



Shed

131-24

Inspection Date: 02/11/25

Inspector: J. Mier EMS N/A



Inspection Requested:

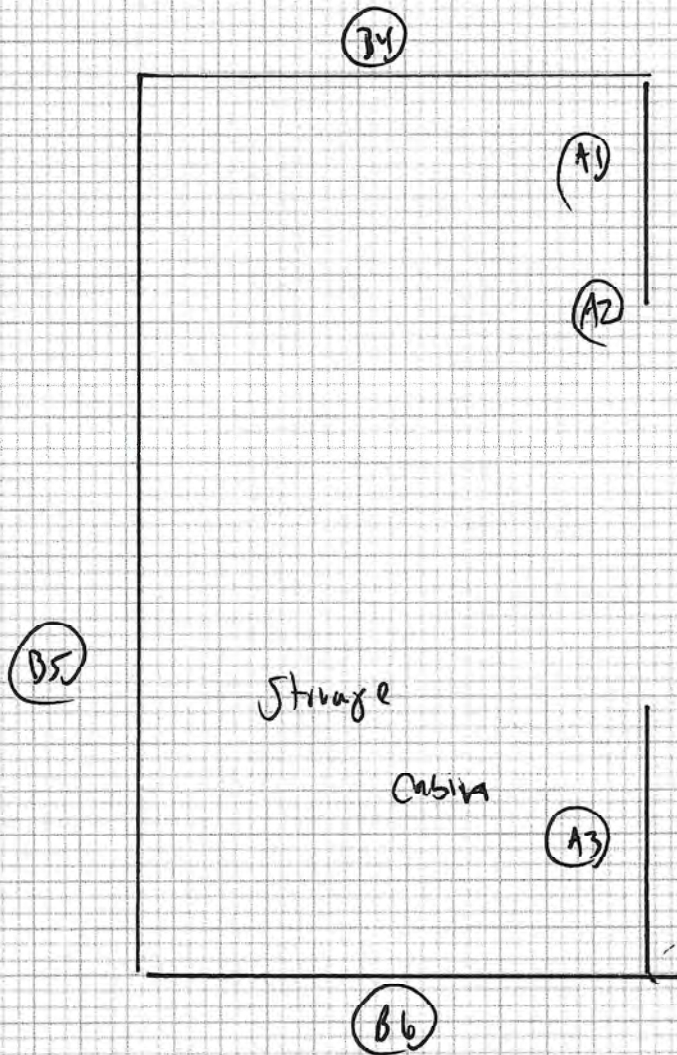
Asbestos Survey



Client:

Address:

Red Storage Cabin (1)



131-25-037

Inspection Date: 02/11/20

Inspector: J. Mier EMS N/A



Inspection Requested:

Asbestos Survey

Client:

Address:

Guest House (2)



(B6)

(A2)

bedroom

kitchen

(A2)

(B1)

Garage

(A1)

(D5)

(A2)

(A2)

(A2)

131-25-037

Inspection Date: 12/11/25

Inspector: J. Mier EMS N/A



Inspection Requested:

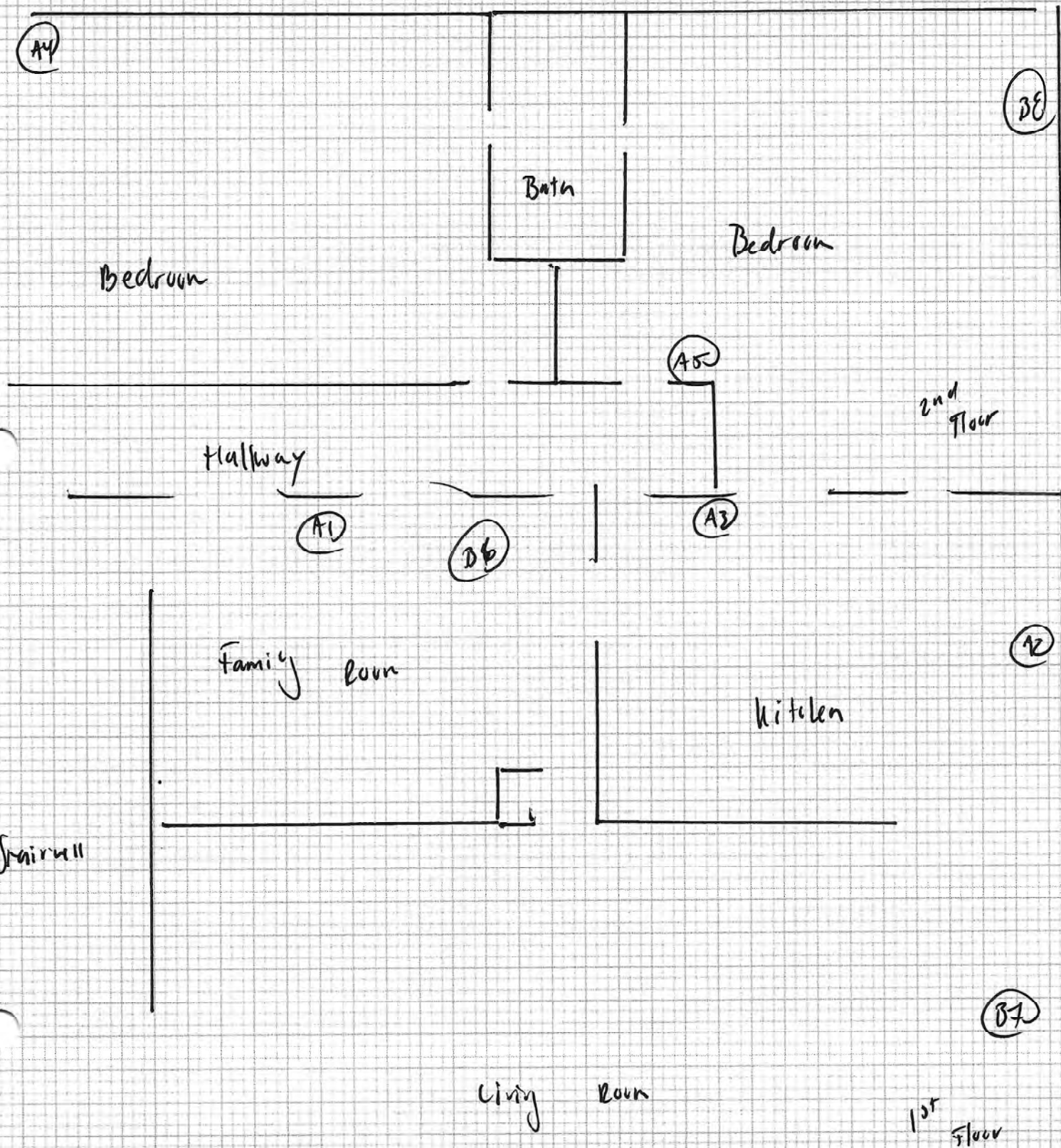
Ashworth

Sunny.

Client:

Address:

Main House (3)



131-25-037

Inspection Date:

02/11/21

Inspector:

J. Miller

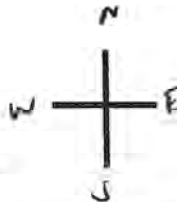
EMS

N/A

Inspection Requested:

Asbestos

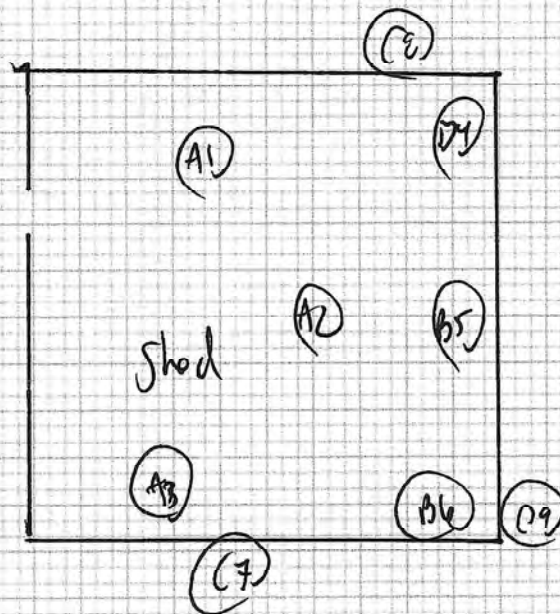
Survey



Client:

Address:

Shed (4)





# USACE NATIONWIDE 37 PERMIT



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT**  
**60 SOUTH CALIFORNIA STREET, SUITE 201**  
**VENTURA, CA 93001-2598**

September 23, 2024

SUBJECT: Nationwide Permit (NWP) Verification

Jeff Palmer, P.E.  
Director  
Ventura County Public Works, Watershed Protection  
800 S. Victoria Avenue  
Ventura, California 93009

Dear Mr. Palmer:

I am responding to your request dated June 6, 2024, for a Department of the Army (DA) permit for your proposed project, Coyote Creek Channel Clearing (File No. SPL-2024-00385-AJS). The proposed project is located in Coyote Creek, near the community of Casitas Springs, Ventura County, California (Latitude 34.358285°, Longitude -119.315626°).

Because this project would result in a discharge of dredged and/or fill material into waters of the U.S., a Department of the Army permit is required pursuant to Section 404 of the Clean Water Act (33 USC 1344; 33 CFR parts 323 and 330). I have determined construction of your proposed project, if constructed as described in your application, would comply with NWP 37 Emergency Watershed Protection and Rehabilitation. Specifically, and as shown in the enclosed figure(s), you are authorized to:

1. Temporarily discharge dredged material into 0.74 acre of non-wetland waters and 0.05 acre of wetlands associated with excavation and recontouring of a pilot channel along approximately 3,300 linear feet of Coyote Creek;
2. Place new ungrouted rock erosion protection at the Camp Chafee Road crossing, resulting in permanent impacts to 0.03 acre of non-wetland waters and 0.05 acre of wetlands.

For this NWP verification letter to be valid, you must comply with all of the terms and conditions in Enclosure 1. Furthermore, you must comply with the non-discretionary Special Conditions listed below:

1. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
  - A) Date(s) work within waters of the U.S. was initiated and completed;

- B) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
  - C) Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
  - D) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
  - E) Signed Certification of Compliance (attached as part of this permit package).
2. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas shown on the enclosed plan view drawings. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.
  3. This Corps permit does not authorize you to take any threatened or endangered species, in particular the California red-legged frog (*Rana draytonii*), least Bell's vireo (*Vireo bellii pusillus*) or southwestern willow flycatcher (*Empidonax traillii extimus*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service (FWS) BO (No. 2024-0100544 S7-001) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" of the affected species that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, the terms and conditions of which are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The FWS and Natural Resource Conservation Service are the appropriate authorities to determine compliance with the terms and conditions of the BO and with the ESA.
  4. At the conclusion of the project, the Permittee shall revegetate the disturbed portions of the earthen stream banks with native non-invasive vegetation of facultative upland (FACU) or wetter species, as described in the Project Description document provided with the application.

5. Temporary surface water diversions shall follow the Ventura County Water Diversion Guide.

This verification is valid through March 14, 2026. If on March 14, 2026, you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present NWP terms and conditions. However, if I discover noncompliance or unauthorized activities associated with the permitted activity I may request the use of discretionary authority in accordance with procedures in 33 CFR part 330.4(e) and 33 CFR part 330.5(c) or (d) to modify, suspend, or revoke this specific verification at an earlier date. Additionally, at the national level the Chief of Engineers, any time prior to March 14, 2026, may choose to modify, suspend, or revoke the nationwide use of a NWP after following procedures set forth in 33 CFR part 330.5. It is incumbent upon you to comply with all of the terms and conditions of this NWP verification and to remain informed of any change to the NWPs.

A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact me at (805) 585-2147 or via email at [Antal.J.Szijj@usace.army.mil](mailto:Antal.J.Szijj@usace.army.mil). Please help me to evaluate and improve the regulatory experience for others by completing the [customer survey](https://regulatory.ops.usace.army.mil/customer-service-survey/) form at <https://regulatory.ops.usace.army.mil/customer-service-survey/>.

Sincerely,



Date: 2024.09.23

16:28:06 -07'00'

Antal Szijj  
Team Lead  
Ventura Field Office  
North Coast Branch

Enclosures



**LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS**

**CERTIFICATE OF COMPLIANCE WITH  
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT**

**Permit Number:** *SPL-2024-00385-AJS*

**Name of Permittee:** *Jeff Palmer, P.E., Ventura County Public Works, Watershed Protection*

**Date of Issuance:** *September 23, 2024*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and email it to [Antal.J.Szijj@usace.army.mil](mailto:Antal.J.Szijj@usace.army.mil) or [splregventura@usace.army.mil](mailto:splregventura@usace.army.mil).

I hereby certify that the authorized work and any required compensatory mitigation has been completed in accordance with the NWP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 CFR 332.3(l)(3) to confirm that the appropriate number and resource type of credits have been secured.

---

Signature of Permittee

---

Date

1. TEMPORARY WORK AREA LIMITS SHALL BE STAKED AND ALL EQUIPMENT SHALL BE OPERATED WITHIN THE TEMPORARY WORK AREA LIMITS.

1. TEMPORARY WORK AREA LIMITS SHALL BE STAKED AND ALL EQUIPMENT SHALL BE OPERATED WITHIN THE TEMPORARY WORK AREA LIMITS.
2. EXISTING IMPROVEMENTS WITHIN THE RIGHT OF WAY AND WORK AREAS SHALL REMAIN AND SHALL BE PROTECTED AND MAINTAINED. ALL EXISTING UTILITIES SHALL BE RELOCATED IN KIND TO CONFORM TO THE STANDARD BETTER THAN THAT WHICH EXISTED PRIOR TO CONSTRUCTION AT CONTRACTOR'S OWN EXPENSE.
3. CLEAR, GRUB, REMOVE, AND DISPOSE OF EXISTING VEGETATION INCLUDING TREES WITHIN THE TEMPORARY WORK AREA LIMITS.
4. CONSTRUCT EARTHEN PILOT CHANNEL.



**PLAN**

60 0 60 120  
SCALE OF FEET

## PLAN

EXHIBIT

DATE	REVISION	DESCRIPTION	APP.	DATE
A				
B				
C				
D				

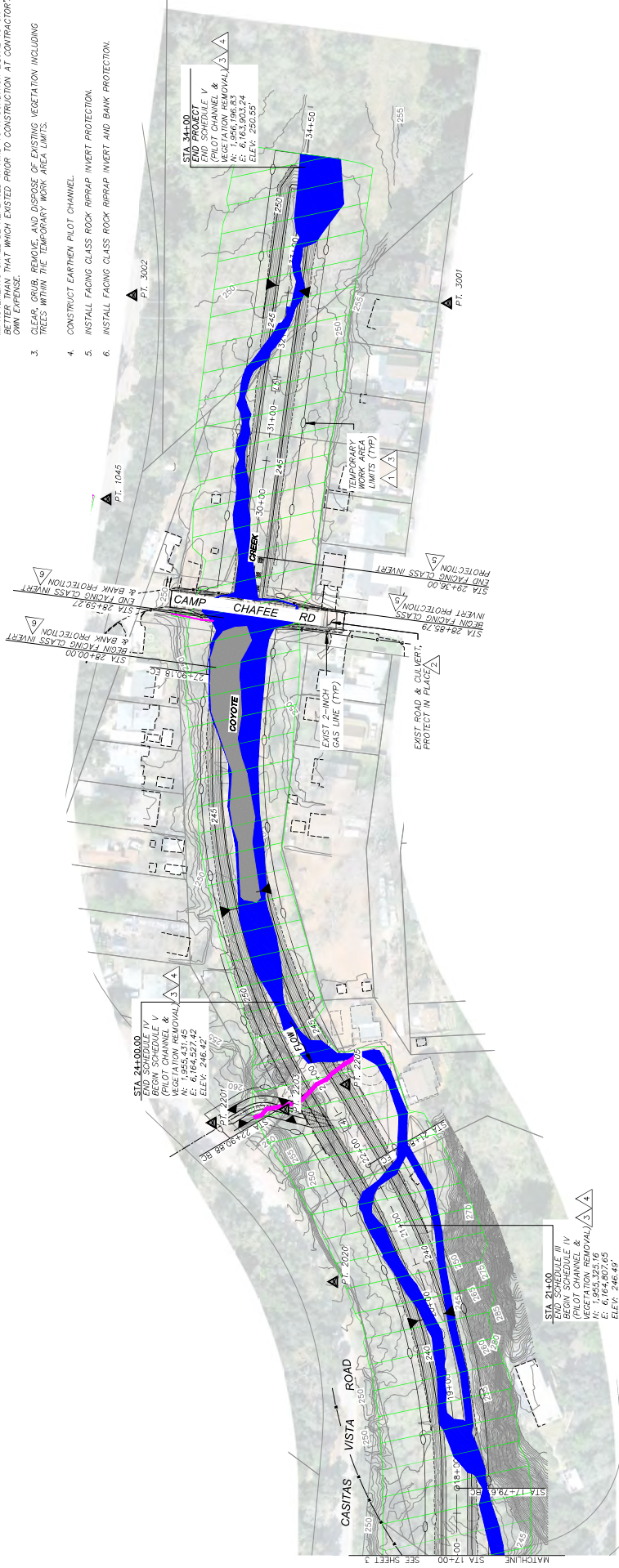
DESIGNED	RKM	WATERSHED PROJECT MANAGER	DATE
DRAWN	RKM	WATERSHED DEPUTY DIRECTOR	DATE
SOP			

**VENTURA COUNTY  
PUBLIC WORKS AGENCY  
WATERSHED PROTECTION**

**COYOTE CREEK  
EMERGENCY PILOT CHANNEL**





SPEC. NO.	—
PROJ. NO.	81175

SHEET 1  
OF 2  
DRAWING SET NO. \_\_\_\_\_



- NOTES:

1. TEMPORARY WORK AREA LIMITS SHALL BE STAKED AND ALL EQUIPMENT SHALL BE OPERATED WITHIN THE TEMPORARY WORK AREA LIMITS.
2. EXISTING IMPROVEMENTS WITHIN THE RIGHT OF WAY AND WORK AREAS SHALL BE MAINTAINED AND PRESERVED. ANY IMPROVEMENTS SHALL BE REPLACED IN KIND TO A CONDITION EQUAL TO OR BETTER THAN THAT WHICH EXISTED PRIOR TO CONSTRUCTION AT CONTRACTOR'S OWN EXPENSE.
3. CLEAR, GRUB, REMOVE, AND DISPOSE OF EXISTING VEGETATION INCLUDING TREES WITHIN THE TEMPORARY WORK AREA LIMITS.
4. CONSTRUCT EARTHEN PILOT CHANNEL.
5. INSTALL FACING CLASS ROCK RIPRAP INERT PROTECTION.
6. INSTALL FACING CLASS ROCK RIPRAP INERT AND BANK PROTECTION.

LEGEND	
	USACE/RWQCB – NON–WETLAND WATERS OF THE U.S./STATE
	USACE/RWQCB – WETLAND WATERS OF THE U.S./STATE
	RWQCB – NON–WETLAND WATERS OF THE STATE
	CDFW – JURISDICTIONAL HABITAT

## LEGEND

USACE/RWQCB - NON-WETLAND WATERS OF THE U.S./STATE

USACE/RWQCB - WETLAND WATERS OF THE U.S./STATE

RWQCB - NON-WETLAND WATERS OF THE STATE

CDFW – JURISDICTIONAL HABITAT

[illegible]

## **Enclosure 1: NATIONWIDE PERMIT NUMBER 37 Emergency Watershed Protection and Rehabilitation**

### **1. Nationwide Permit (NWP) 37 Emergency Watershed Protection and Rehabilitation Terms:**

37. Emergency Watershed Protection and Rehabilitation. Work done by or funded by:

(a) The Natural Resources Conservation Service for a situation requiring immediate action under its emergency Watershed Protection Program (7 CFR part 624);

(b) The U.S. Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 2509.13);

(c) The Department of the Interior for wildland fire management burned area emergency stabilization and rehabilitation (DOI Manual part 620, Ch. 3);

(d) The Office of Surface Mining, or states with approved programs, for abandoned mine land reclamation activities under Title IV of the Surface Mining Control and Reclamation Act (30 CFR subchapter R), where the activity does not involve coal extraction; or

(e) The Farm Service Agency under its Emergency Conservation Program (7 CFR part 701).

In general, the permittee should wait until the district engineer issues an NWP verification or 45 calendar days have passed before proceeding with the watershed protection and rehabilitation activity. However, in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the emergency watershed protection and rehabilitation activity may proceed immediately and the district engineer will consider the information in the pre-construction notification and any comments received as a result of agency coordination to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

Notification: Except in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). (Authorities: Sections 10 and 404)

**2. General Conditions:** The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.
13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river,

has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable

and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP

until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory

mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

**31. Activities Affecting Structures or Works Built by the United States.** If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

**32. Pre-Construction Notification.** (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

### **3. Regional Conditions for the State of California:**

1. The permittee shall submit a pre-construction notification (PCN) for all 2021 NWPs, in accordance with General Condition 32, in the following circumstances:

- a. Activities involving new bank stabilization that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel;
  - b. Activities resulting in a discharge of dredged or fill material in waters of the U.S. on Tribal Lands\*;
  - c. Activities involving the permanent channelization, realignment, or relocation of streams; and,
  - d. Activities that have the potential to adversely affect Essential Fish Habitat (EFH), as designated by the Pacific Fishery Management Council. The PCN shall include an EFH assessment and analysis of effects of the action on EFH, in accordance with 50 C.F.R. § 600.920 (e). For Federal permittees, if a PCN is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with the Magnuson-Stevens Fishery Conservation and Management Act;
2. In the desert regions of Los Angeles District (USGS Hydrologic Unit Code accounting units: Lower Colorado -150301, Northern Mojave-180902, Southern Mojave-181001, and Salton Sea-181002), the use of any NWP resulting in greater than 0.10-acre loss\*\* of wetlands, mudflats, vegetated shallows, or riffle and pool complexes, as defined at 40 CFR Part 230.40-45, is prohibited.
  3. In the Los Angeles District, NWPs 29, 39, 42 and 43, and NWP 14 combined with any of those NWPs, cannot authorize a loss\*\* of waters of the United States greater than 0.25 acre Within the Murrieta Creek and Temecula Creek watersheds in Riverside County.
  4. In the Los Angeles District, all 2021 NWPs are revoked within the Special Area Management Plans areas of the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California. Additional information is available here: <https://www.spl.usace.army.mil/Missions/Regulatory/Established-LOP-Procedures/>
  5. In the Los Angeles District, the permittee shall submit a pre-construction notification (PCN) for all 2021 NWPs, in accordance with General Condition 32, in the following circumstances:
    - a. Activities that would result in a loss\*\* of waters of the United States within the Murrieta and Temecula Creek watersheds in Riverside County, California; and,
    - b. Activities that would result in a loss\*\* of waters of the United States within Santa Clara River watershed in Los Angeles and Ventura County, California, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River; and,
    - c. Activities that would result in a loss\*\* of waters of the United States within all watersheds in the Santa Monica Mountains in Los Angeles and Ventura County, California, bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south; and,
    - d. Activities that would result in a loss\*\* of waters of the United States within all perennial waterbodies and special aquatic sites.

\* "Tribal Lands" refers to any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

\*\* "Loss" means waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity.

#### **4. District Engineer's Decision**

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a

requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

## **5. Further Information**

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

## **6. Nationwide Permit Definitions**

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include

storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may

be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

**Riffle and pool complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

**Riparian areas:** Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

**Single and complete linear project:** A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

**Single and complete non-linear project:** For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

**Stormwater management:** Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

**Stormwater management facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

**Stream bed:** The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

**Stream channelization:** The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

**Tidal wetland:** A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

**Tribal lands:** Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

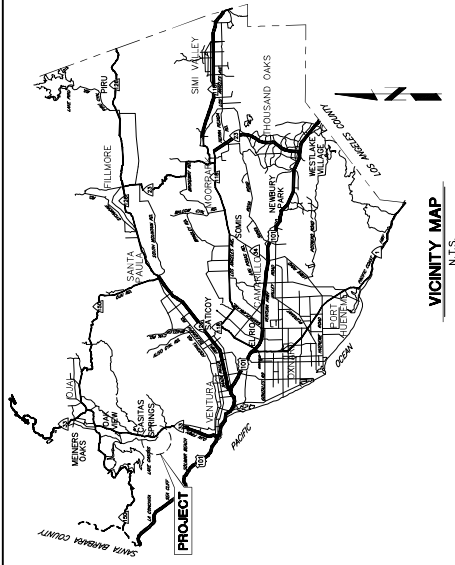
**Tribal rights:** Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

**Vegetated shallows:** Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

**Waterbody:** For purposes of the NWP, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).



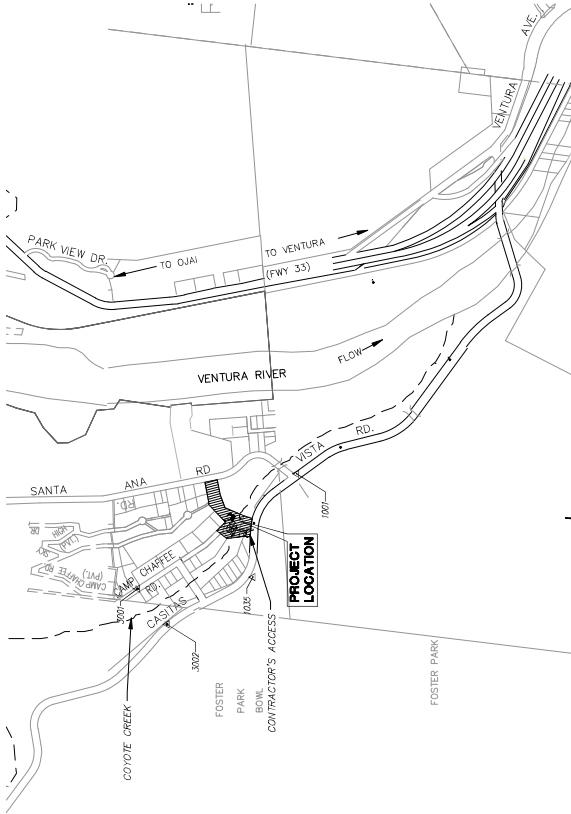
# PLANS 2 SHEETS



INDEX TO SHEETS	
SHEET NO.	TITLE
1.	GENERAL PLAN
2.	575 CASITAS VISTA RD - DEMOLITION PLAN

# VENTURA COUNTY PUBLIC WORKS AGENCY WATERSHED PROTECTION

## ZONE 1 COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION) VENTURA COUNTY UNINCORPORATED AREA



### SCOPE OF WORK

THE SCOPE OF WORK CONSISTS OF THE DEMOLITION OF ALL BUILDINGS AND EXISTING STRUCTURES WITHIN THE LIMITS SHOWN ON THESE PLANS, INCLUDING BUT NOT LIMITED TO ALL CONCRETE ASPHALT PADS, SWIMMING POOL, AND EXISTING UTILITY STRUCTURES. ALL UTILITIES SHALL BE REMOVED AND GROUNDING ALL EXISTING VEGETATION WITHIN THE TEMPORARY WORK AREA LIMIT.



### GENERAL NOTES

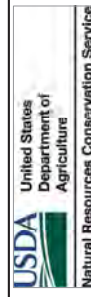
- ELEVATIONS SHOWN ARE IN FEET, NORTH AMERICAN VERTICAL DATUM OF 1988, EPOCH DATE.
  - NUMBERS IN  $\triangle$  INDICATE BID ITEMS FOR WHICH PAYMENT WILL BE MADE.
  - LETTER AND NUMBER IN  $\triangle$  INDICATE THE DETAIL CALL-OUT AND SHEET ON WHICH REFERENCE DETAIL IS SHOWN.
  - NUMBERS IN  $\triangle$  REFER TO NOTES ON SAME SHEET UNLESS OTHERWISE NOTED.
  - DELINEATES LIMITS OF VOWPD RIGHT OF WAY.
  - DELINEATES LIMITS OF TEMPORARY WORK AREA.
  - TOPOGRAPHY AND CROSS SECTIONS FOR THIS PROJECT ARE BASED ON AERIAL AND FIELD SURVEYS PERFORMED IN NOVEMBER 2024.
  - SYMBOL  $\triangle$  INDICATES THE LOCATION OF HORIZONTAL AND VERTICAL CONTROL POINTS WHICH WILL BE FURNISHED BY THE AGENCY FOR CONSTRUCTION USE.
- #### SURVEY CONTROL POINTS
- |         |                          |                         |                |
|---------|--------------------------|-------------------------|----------------|
| PT 1001 | NORTHING/Y: 1,954,907.16 | EASTING/X: 6,165,061.33 | ELEV/Z: 252.19 |
| PT 1035 | NORTHING/Y: 1,955,258.48 | EASTING/X: 6,164,230.22 | ELEV/Z: 267.64 |
| PT 3001 | NORTHING/Y: 1,956,186.24 | EASTING/X: 6,164,136.53 | ELEV/Z: 257.76 |
| PT 3002 | NORTHING/Y: 1,955,949.78 | EASTING/X: 6,163,849.35 | ELEV/Z: 273.30 |
- EXISTING IMPROVEMENTS WITHIN THE RIGHT OF WAY AND WORK AREAS SHALL REMAIN AND SHALL BE PROTECTED, UNLESS OTHERWISE NOTED. DAMAGED IMPROVEMENTS SHALL BE REPLACED IN KIND TO A CONDITION EQUAL TO OR BETTER THAN THAT WHICH EXISTED PRIOR TO CONSTRUCTION.
  - UTILITIES ARE SHOWN AS KNOWN TO EXIST AT TIME OF SURVEY. UTILITIES MAY HAVE BEEN OMITTED, MISPLACED, AND/OR RELOCATED. CONTRACTOR SHALL EXERCISE CARE IN EXCAVATION AND SHALL PROTECT ALL UTILITIES.
  - CONTRACTOR SHALL NOTIFY UTILITY OWNERS A MINIMUM OF 48 HOURS PRIOR TO STARTING WORK IN AREAS AFFECTING THEIR FACILITIES.

CASTAS MUNICIPAL WATER DISTRICT  
SOUTHERN CALIFORNIA GAS COMPANY  
SOUTHERN CALIFORNIA GAS COMPANY DISTRIBUTION  
Ojai Valley Sanitation District

TEL. NO. (805) 687-7222 JULIA ARANDA  
TEL. NO. (805) 687-7222 JESSICA ARANDA  
TEL. NO. (805) 687-7222 TONY MALLORD  
TEL. NO. (805) 687-7222 JAVIER PULIDO  
TEL. NO. (805) 646-3546 KELLY RUSSELL

### UNDERGROUND SERVICE ALERT

- 1-800-422-4133
- FOR UNDERGROUND LOCATION
- 2 WORKING DAYS BEFORE YOU DIG



### NRCS STATEMENT

TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, THESE PLANS MEET ALL APPLICABLE NRCS STANDARDS AND SPECIFICATIONS.

NRCS review was completed for review compliance with the following NRCS Practice Standards: 500 - Obstruction Removal

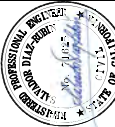
Consented By: \_\_\_\_\_ Date: \_\_\_\_\_

DATE: 03/20/2024  
TIME: 3:00 PM  
DATE: 3-25-25

### VENTURA COUNTY PUBLIC WORKS AGENCY WATERSHED PROTECTION

### COYOTE CREEK PILOT CHANNEL (STRUCTURE DEMOLITION) GENERAL PLAN

SHEET NO.	1
OF	2
DRAWING SET NO.	WP25-15
PROJECT NO.	81176
DATE	10/1/2024



1. EXISTING IMPROVEMENTS WITHIN THE TEMPORARY WORK AREAS SHALL BE PROTECTED IN PLACE UNLESS OTHERWISE NOTED. DAMAGED AREAS SHALL BE REPAIRED TO ORIGINAL CONDITION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEMOLITION AT CONTRACTOR'S OWN EXPENSE AND TO THE SATISFACTION OF THE ENGINEER.
2. THE CONTRACTOR SHALL BE WHOLLY RESPONSIBLE FOR CONTACTING THE IMPACTED UTILITY COMPANIES IN ORDER TO DISSEMINATE SERVICE TIE-IN INFORMATION AND TO OBTAIN NECESSARY PERMITS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEMOLITION OF ALL UTILITY METER DE-ENERGIZATION, AND ABANDONMENT. ALL UTILITY COORDINATION SHALL HAPPEN BEFORE DEMOLITION.
3. THE CONTRACTOR SHALL EXERCISE DUE DILIGENCE AND REMOVE ALL HAZARDOUS WASTE FROM EXISTING BUILDINGS AND SHEETS. HAZARDOUS WASTE INCLUDES BUT IS NOT LIMITED TO: ASBESTOS, FRICTION, FUELS, FLAMMABLES, FLUORIDES, FERTILIZERS, ANTIFREEZE, BATTERIES, CLEANING SUPPLIES, FLUORESCENT LIGHT BULBS, TELEVISIONS, COMPUTERS, CELL PHONES, MOTOR OIL, AND OTHERS. HAZARDOUS WASTE SHALL BE DISPOSED OF IN ACCORDANCE WITH STATE AND FEDERAL HAZARDOUS WASTE LAWS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND REPORTS FOR THE REMOVAL OF HAZARDOUS WASTE. S&I ENVIRONMENTAL TESTING THE REPORT LISTS ALL FOUND MATERIALS CONTAINING ASBESTOS FOR THE CONTRACTOR'S REVIEW. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF ALL ASBESTOS AS LISTED IN THE REPORT. ASBESTOS IS INCLUDED IN THE SHEETS BOOK, REFERRED AS EXHIBIT "A".
4. THE CONTRACTOR SHALL REMOVE, REMOVE AND DISPOSE OF EXISTING CONCRETE DRIVEWAY AND ALL APPURTENANCES. 6
5. THE CONTRACTOR SHALL DEMOLISH, REMOVE AND DISPOSE OF THE EXISTING SLAB DEMOLITION, REMOVE AND DISPOSE OF THE EXISTING SLAB INCLUDING BUT NOT LIMITED TO THE WALLS, SLAB ON GRADE AND ON FOOTINGS, DOORS, WINDOWS, POOFING, AND ALL THE MATERIALS AND FINISHES THEREON. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEMOLITION AND DISPOSAL OF PER NOTE 1. 5
6. THE CONTRACTOR SHALL REMOVE, REMOVE, AND DISPOSE OF THE EXISTING CONCRETE WALL, INCLUDING POSTS AND FOOTINGS, AND ALL APPURTENANCES. 6
7. THE CONTRACTOR SHALL DEMOLISH, REMOVE AND DISPOSE OF EXISTING CONCRETE WALL, FOOTINGS AND APPURTENANCES. 6
8. EXISTING UTILITY POLE TO BE REMOVED OR ABANDONED BY OTHERS. THE CONTRACTOR SHALL BE WHOLLY RESPONSIBLE FOR THE COORDINATION REMOVAL PER NOTE 2 HEREON.
9. THE CONTRACTOR SHALL DEMOLISH, REMOVE, AND DISPOSE OF THE EXISTING SWIMMING POOL. REMOVAL SHALL INCLUDE BUT NOT BE LIMITED TO: EXISTING SWIMMING POOL, EXISTING WALLS, FENCING, PUMP SYSTEM AND ALL APPURTENANCES. 6
10. THE CONTRACTOR SHALL DEMOLISH, REMOVE AND DISPOSE OF EXISTING HOUSE INCLUDING BUT NOT LIMITED TO WALLS, FLOORING, SLAB ON GRADE, ROOFING, WINDOWS, DOORS, GARAGE DOORS, COUNTERTOPS, MATERIAL OR EQUIPMENT IN THE HOUSE, ETC. ALL HAZARDOUS WASTE FOUND IN THE HOUSE SHALL BE REMOVED AND DISPOSED OF PER NOTE 3. HEREON. 5 6
11. THE CONTRACTOR SHALL REMOVE THE SEPTIC TANK INCLUDING ALL OF THE SEPTIC TANK AND ALL APPURTENANCES. THE CONTRACTOR SHALL BE RESPONSIBLE TO OBTAIN ALL REQUIRED PERMITS INCLUDING THE SEPTIC TANK REMOVAL PERMITS FROM THE SANITATION DIVISION (S&I). THE EXACT LOCATION AND DIMENSIONS OF THE EXISTING SEPTIC TANK AND LEACH LINE IS UNKNOWN. 5 6
12. THE CONTRACTOR SHALL REMOVE, AND DISPOSE OF, INCLUDING BUT NOT LIMITED TO LANDSCAPING, BENCHES, BRICKS, WOOD, METAL, TRASH, ETC. WITHIN THE TEMPORARY WORK AREA LIMITS. 6
13. CONTRACTOR SHALL BE WHOLLY RESPONSIBLE FOR OBTAINING A PERMIT FROM THE SANITATION DIVISION (S&I) FOR THE REMOVAL OF ALL STRUCTURES AS SHOWN ON THIS PLAN FROM AIR POLLUTION CONTROL DISTRICT (APCD) AND VENTURA COUNTY BUILDING AND SAFETY. 6
14. HEAVY EQUIPMENT USED FOR THE DEMOLITION WILL REQUIRE A HEAVY DUTY OF A TEMPORARY RAMP AREA TO THE CREEK (BY OTHERS). 6
15. CLEAR GRUBBING AND DISPOSAL OF EXISTING VEGETATION INCLUDING BUT NOT LIMITED TO TREES AND SHRUBS WITHIN THE TEMPORARY WORK AREA LIMITS. 2
16. THE CONTRACTOR SHALL DEMOLISH, REMOVE AND DISPOSE OF EXISTING 2 3/8-INCH CMP. 6
17. SEDIMENT REMOVAL TO EXPOSE DRIVEWAY BY OTHERS.
18. CONTRACTOR SHALL REMOVE AND DISPOSAL OF ALL DEBRIS WITHIN THE TEMPORARY WORK AREA LIMITS. 6
19. CONTRACTOR SHALL REMOVE, REMOVE AND DISPOSE OF ALL CONCRETE, METAL, BRIDGE DECK, APPURTENANCES, VEGETATION, BASE MATERIAL, ETC. 6

**COYOTE CREEK PILOT CHANNEL  
(STRUCTURE DEMOLITION)**

	REASON	DESCRIPTION	APP.	DATE
A				
B				
C				
D				

**EVALUA**

3235000

**EVALUA, A RAMIREZ**

08/06/2025

**S. DIAZ RUBIN**

3/20/2025

**03/17/2025**

**DATE**

SPEC. NO.	WPD25-15
PROJ. NO.	81176

SHEET 2  
OF 2

DRAWING SET NO.  
WPD-01-118