

AGREEMENT NUMBER <b>22-006</b>	AM. NO.
TAXPAYERS FEDERAL EMPLOYER IDENTIFICATION NO. <b>95-6000944</b>	

THIS AGREEMENT is entered into this 10th day of October, 2022 in the State of California, by and between:





AGENCY State Coastal Conservancy	and
GRANTEE'S NAME County of Ventura	

## I. SCOPE OF AGREEMENT

Pursuant to Chapter 5.5 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the County of Ventura ("the grantee") a sum not to exceed \$379,350 (three hundred seventy-nine thousand three hundred fifty dollars) ("funds"), subject to this agreement.

*(Continued on the following pages)*

The provisions on the following pages constitute a part of this agreement.  
This agreement has been executed by the parties as shown below.

STATE OF CALIFORNIA		GRANTEE			
AGENCY State Coastal Conservancy		GRANTEE (If other than an individual, state whether a corporation, partnership, etc.) County of Ventura			
BY (Authorized Signature)  Amy Hutzel		BY (Authorized Signature)  Glenn Shephard			
PRINTED NAME AND TITLE OF PERSON SIGNING Amy Hutzel, Executive Officer		PRINTED NAME AND TITLE OF PERSON SIGNING Glenn Shephard Director, Watershed Protection			
ADDRESS & PHONE NUMBER 1515 Clay Street, 10 <sup>th</sup> Floor Oakland, CA 94612 Phone: (510) 286-1015		ADDRESS & PHONE NUMBER 800 South Victoria Avenue Ventura, CA 93009-1600 Phone: (805) 654-2018			
AMOUNT ENCUMBERED BY THIS DOCUMENT \$379,350.00	PROGRAM/CATEGORY Other Capital Outlay	FUND TITLE/PROP NO. Habitat Conservation Fund			I certify that this agreement is exempt from Department of General Services' approval.    Erlinda Corpuz Procurement and Contracts Manager
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$-0-	FUND ITEM 3760-801-0262 = \$351,221.00 3760-801-0262 = \$28,129.00	CHAPTER 0006 9	STATUTE 2020 2013	FISCAL YEAR 20/21 13/14	
TOTAL AMOUNT ENCUMBERED TO DATE \$379,350.00	PROJECT NAME Matilija Dam Ecosystem Restoration Project: Robles Diversion Design				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.					
NAME AND SIGNATURE OF <a href="#">ACCOUNTING</a> OFFICER  		DATE 10/10/2022			

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The grantee shall use the funds to develop design criteria, preliminary design plans, and alternatives refinement for structural and operational improvements as part of a design plan (“the project”) for the Robles Diversion in the Meiners Oaks area of Ventura County as shown on Exhibit 1, which is incorporated by reference and attached.

The project consists of refinement of design criteria and project design alternatives identified in the initial phase of the project design. These designs have recently been subject to independent technical review which also will inform this alternatives refinement. These tasks will be undertaken with the Robles Diversion Working Group.

The grantee shall carry out the project in accordance with this agreement. The grantee shall provide any funds beyond those granted under this agreement that are needed to complete the project.

## **II. CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT**

The grantee shall not commence the project and the Conservancy shall not be obligated to disburse any funds under this agreement until the following conditions precedent have been met:

1. The Board of Supervisors of the grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Conservancy (“Executive Officer”) has approved in writing:
  - a. The work program for the project as provided in section “V. WORK PROGRAM.”
  - b. All contractors that the grantee intends to retain in connection with the project.
3. The grantee has provided written evidence to the Conservancy that:
  - a. The grantee has provided for required insurance coverage, including additional insured endorsement, as described in section “XIII. INSURANCE.”

### **III. TERM OF AGREEMENT**

This agreement shall take effect when signed by both parties and received in the office of the Conservancy together with the resolution described in section “II. CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT.” This agreement may be signed electronically using a process specified by the Conservancy.

This agreement shall run from its effective date through December 31, 2025 (“the termination date”) unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by June 30 2025 (“the completion date”).

The grantee shall deliver a final Request for Disbursement to the Conservancy no later than July 31, 2025.

### **IV. AUTHORIZATION**

The signature of the Executive Officer of the Conservancy on this agreement certifies that at its December 2, 2021 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit 2. This agreement is executed under that authorization.

## **Standard Provisions**

### **V. WORK PROGRAM**

Before beginning the project, the grantee shall submit a detailed work program to the Executive Officer for review and written approval of its consistency with this grant agreement. The work program shall include:

1. The specific tasks to be performed.
2. A schedule of completion for the project, specifically listing the completion date for each project component and a final project completion date.
3. A detailed project budget. The project budget shall describe all labor and materials costs of completing each component of the project. For each project component, the project budget shall list all intended funding sources including the Conservancy's grant and all other sources of monies, materials, or labor.

If all or any part of the project to be funded under this agreement will be performed by third parties ("contractors") under contract with the grantee, the grantee shall submit to the Executive Officer for review and approval the names and qualifications of the contractors.

The work program shall have the same effect as if included in the text of this agreement. However, the work program may be modified without amendment of this agreement upon the grantee's submission of a modified work program and the Executive Officer's written approval of it. If this agreement and the work program are inconsistent, the agreement shall control.

The grantee shall carry out the project in accordance with the approved work program.

### **VI. COORDINATION AND MEETINGS**

The grantee shall coordinate closely with Conservancy staff and other involved entities, including local, state and federal agencies, and shall participate in meetings and other communications as necessary to ensure coordination.

## **VII. WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT**

All material, data, information, and written, graphic or other work produced, developed or acquired under this agreement is subject to the unqualified and unconditional right of the Conservancy to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for any purpose; and to authorize others to do so. If any of the work is subject to copyright, trademark, service mark, or patent, the Conservancy is granted and shall have a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

The grantee shall include in any contract with a third party for work under this agreement terms that preserve the rights, interests, and obligations created by this section, and that identify the Conservancy as a third-party beneficiary of those provisions.

The grantee shall not utilize the work produced under this agreement for any profit-making venture, nor sell or grant rights to a third party for that purpose.

In order to acknowledge the Conservancy's support of the project, the Conservancy's name and logo shall be included in the final report in a prominent location. The grantee shall mention the Conservancy's support in its project-related press releases, contacts with the media, and social media postings, and on its website.

## **VIII. COSTS AND DISBURSEMENTS**

When the Conservancy determines that all conditions in section "II. CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" have been fully met, the Conservancy shall disburse to the grantee a total amount not to exceed the amount of this grant, in accordance with the approved project budget and this section.

The withholding for this agreement is five percent. The Conservancy shall disburse funds for costs incurred to date, less five percent, upon the grantee's satisfactory progress under the approved work program and upon submission of a "Request for Disbursement" form, which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Conservancy shall disburse the five percent withheld upon the grantee's satisfactory completion of the project and compliance with section "X. PROJECT COMPLETION," and upon the Conservancy's acceptance of the project.

Hourly rates billed to the Conservancy shall be equal to the actual compensation paid by grantee to employees, which may include employee benefits. The grantee shall require its employees to

keep records of their time spent on the project for purposes of documenting the employee time billed to the Conservancy. The Conservancy will reimburse the grantee for expenses necessary to the project when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the state employee rates as identified on the California Department of Human Resources (CalHR) website under travel reimbursements for state employees. The Conservancy may reimburse in excess of the state employee rates upon documentation that these rates are not reasonably available to the grantee.

The grantee shall request disbursements by filing with the Conservancy a fully executed "Request for Disbursement" form (available from the Conservancy). The grantee shall include in the form its name and address, the number of this agreement, the date of the submission, the amount of the invoice, the period during which the work was actually done, and an itemized description, including time, materials, and expenses incurred, of all work done for which disbursement is requested. The form shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement.

An authorized representative of the grantee shall sign the form. Each form shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs that the grantee has incurred.
2. Invoices from contractors that the grantee engaged to complete any portion of the work funded under this agreement and any receipts and any other source documents for costs incurred and expenditures by any such contractor, unless the Executive Officer makes a specific exemption in writing.
3. A progress report summarizing the current status of the project and the work for which the grantee is requesting disbursement.

The grantee's failure to fully execute and submit a Request for Disbursement form, including attachment of supporting documents, will relieve the Conservancy of its obligation to disburse funds to the grantee unless and until the grantee corrects all deficiencies.

#### **IX. EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS**

No increase in the total amount of this grant will be valid unless set forth in a written amendment to this agreement. The grantee shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget, other than overhead and indirect costs, may vary by as much as ten percent without prior approval by the Executive

Officer, provided that the grantee first submits a revised budget to the Conservancy and requests disbursement based on the revised budget. Any deviation greater than ten percent, and any deviation that shifts funds from approved budget items into an overhead or indirect costs category, must be identified in a revised budget approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

#### **X. PROJECT COMPLETION**

The grantee shall complete the project by the completion date provided in section “III. TERM OF AGREEMENT.” Upon completion of the project, the grantee shall supply the Conservancy with evidence of completion by submitting the following by the final Request for Disbursement date set forth in section “III. TERM OF AGREEMENT”:

1. The plan and any other work products specified in the work program for the project, each in a format or formats (for example, paper, digital, photographic) approved by the Executive Officer.
2. A fully executed final “Request for Disbursement.” A “final Request for Disbursement” means a Request for Disbursement that includes the withheld amounts and all remaining amounts for which grantee is entitled to seek payment, if any, pursuant to this agreement.

The Conservancy shall determine whether the grantee has satisfactorily completed the project. If so, the Conservancy shall issue to the grantee a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter.

#### **XI. EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM**

Before the project has commenced, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

Before the project is complete, the Conservancy may terminate or suspend this agreement for any reason by providing the grantee with seven days notice in writing. In either case, the grantee shall immediately stop work under the agreement and take all reasonable measures to prevent further costs to the Conservancy. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding

authorized in this agreement. Any notice suspending work under this agreement shall remain in effect until further written notice from the Conservancy authorizes work to resume.

If the grantee fails to complete the project as required, or fails to fulfill any other obligations of this agreement prior to the termination date, the grantee shall be liable for immediate repayment to the Conservancy of all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and not require repayment for work partially completed. This paragraph shall not be deemed to limit any other remedies the Conservancy may have for breach of this agreement.

Before the project is complete, the grantee may terminate this agreement for any reason by providing the Conservancy with seven days notice in writing and repaying to the Conservancy all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and allow early termination without repayment for work partially completed.

On or before the date of termination of the agreement under this section, whether terminated by the grantee or the Conservancy, the grantee shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this agreement (whether completed or partial), in appropriate, readily useable form.

The parties expressly agree to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this agreement under this section.

The grantee shall include in any agreement with any contractor retained for work under this agreement a provision that entitles the grantee to suspend or terminate the agreement with the contractor for any reason on written notice and on the same terms and conditions specified in this section.

## **XII. INDEMNIFICATION AND HOLD HARMLESS**

The grantee shall be responsible for, indemnify and hold harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages, or costs, including without limitation litigation costs and attorneys fees, resulting from or arising out of the willful or negligent acts or omissions of the grantee, its officers, agents, contractors, subcontractors and employees, or in any way connected with or incident to this agreement, except for the active negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and hold harmless includes the duty to defend as provided in Civil Code Section 2778. This agreement supersedes any right the grantee may have as a public entity to indemnity and contribution as provided in Gov. Code Sections 895 et seq.



The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

Nothing in this agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this agreement.

### **XIII. INSURANCE**

Throughout the term of this agreement, the grantee shall procure and maintain insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the grantee or its agents, representatives, employees, or contractors associated with the project undertaken pursuant to this agreement.

As an alternative, with the written approval of the Executive Officer, the grantee may satisfy the coverage required by this section in whole or in part through: (a) its contractors' procurement and maintenance of insurance for work under this agreement, if the coverage otherwise fully satisfies the requirements of this section; or (b) the grantee's participation in a "risk management" plan, self insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
  - a. Insurance Services Office ("ISO") Commercial General Liability coverage, occurrence basis (Form CG 00 01) or comparable.
  - b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
  - c. Workers' Compensation insurance as required by the Labor Code of the State of California, and Employer's Liability insurance.
2. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:
  - a. General Liability: *(Including operations, products and completed operations, as applicable)* \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this agreement, or the general aggregate limit shall be twice the required occurrence limit.

- b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
  - c. Worker's Compensation and Employer's Liability: Worker's compensation as required by law and Employer's Liability of no less than \$1,000,000 per accident for bodily injury or disease.
- 3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.
- 4. Required Provisions Concerning the Conservancy and the State of California.
  - a. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by first class mail has been given to the Conservancy; or in the event of cancellation of coverage due to nonpayment, after ten days prior written notice to the Conservancy. The grantee shall notify the Conservancy within two days of receipt of notice that any required insurance policy will lapse or be cancelled. At least ten days before an insurance policy held by the grantee lapses or is cancelled, the grantee shall provide the Conservancy with evidence of renewal or replacement of the policy.
  - b. The grantee hereby grants to the State of California, its officers, agents, employees, and volunteers, a waiver of any right to subrogation which any insurer of the grantee may acquire against the State of California, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the grantee has received a waiver of subrogation endorsement from the insurer.
  - c. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:
    - i. The State of California, its officers, agents and employees are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the grantee; and with respect to liability arising out of work or operations, including completed operations, performed by or on behalf of the grantee including materials, parts or equipment furnished in connection with such work or operations.
    - ii. For any claims related to this agreement, the grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees, and not excess to any insurance or self-insurance of the State of California.

- iii. The limits of the additional insured coverage shall equal the limits of the named insured coverage regardless of whether the limits of the named insurance coverage exceed those limits required by this agreement.
  - d. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- 5. **Acceptability of Insurers.** Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to the Conservancy and approved in writing by the Executive Officer.
  - 6. **Verification of Coverage.** The grantee shall furnish the Conservancy with original certificates and amendatory endorsements, or copies of the applicable policy language, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Executive Officer before work commences. The Conservancy reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.
  - 7. **Contractors.** The grantee shall include all contractors as insureds under its policies or shall require each contractor to provide and maintain coverage consistent with the requirements of this section. To the extent generally available, grantee shall also require each professional contractor to provide and maintain errors and omissions liability insurance appropriate to the contractor's profession and in a reasonable amount in light of the nature of the project
  - 8. **Premiums and Assessments.** The Conservancy is not responsible for premiums and assessments on any insurance policy.

#### **XIV. AUDITS/ACCOUNTING/RECORDS**

The grantee shall maintain financial accounts, documents, and records (collectively, "required records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The required records include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, disbursement of all funds related to work under the agreement, and time and effort reports that permit tracing from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all required records. The grantee shall provide the Conservancy or its agents with any relevant information requested

and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the required records for a minimum of three years following final disbursement by the Conservancy. The records shall be subject to examination and audit by the Conservancy and the California State Auditor during the retention period.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

The grantee shall conduct an audit in accordance with Title 2, Code of Federal Regulations, Part 200 (2 CFR 200). The audit shall be conducted at least every two years, completed within twelve months after the end of the grantee's fiscal year, and submitted to the Conservancy within thirty days after the completion of the audit. The Conservancy shall provide technical assistance to the grantee, at the grantee's request, for meeting the requirements of 2 CFR 200.

#### **XV. COMPUTER SOFTWARE**

The grantee certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this contract, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

#### **XVI. NONDISCRIMINATION**

During the performance of this agreement, the grantee and its contractors shall not deny the agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The grantee shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. The grantee and contractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated

thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the Conservancy to implement such article. The grantee shall permit access by representatives of the Department of Fair Employment and Housing and the Conservancy upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the Conservancy shall require to ascertain compliance with this clause. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

The grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under this agreement.

## **XVII. AMERICANS WITH DISABILITIES ACT**

By signing this agreement, grantee certifies that it is in compliance with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C., 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

## **XVIII. PREVAILING WAGE**

Work done under this grant agreement may be subject to the prevailing wage and other related requirements of the California Labor Code, Division 2, Part 7, Chapter 1, sections 1720-1861. If required by law to do so, the grantee shall pay prevailing wage to all persons employed in the performance of any part of the project and otherwise comply with all associated requirements and obligations.

The grantee is responsible for determining whether the project is subject to prevailing wage laws, and for complying with all labor laws applicable to the project. The grantee may also review the Conservancy publication, Information on Current Status of Prevailing Wage Laws for State Coastal Conservancy Grantees (May 2018), available from the Conservancy on request; provided, that this publication is for grantee's informational purposes only, and shall not be construed as legal advice to the grantee on whether the grantee's project is subject to prevailing wage laws.

### **XIX. UNION ORGANIZING**

By signing this agreement, grantee hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this agreement, and certifies that no state funds disbursed by this agreement will be used to assist, promote or deter union organizing. If grantee makes expenditures to assist, promote or deter union organizing, grantee agrees to maintain records sufficient to show that no state funds, including the funds provided under this agreement, have been used for these purposes, and shall provide these records to the Attorney General upon request.

### **XX. DRUG-FREE WORKPLACE**

The grantee's signature on this agreement constitutes the certification required by Government Code Section 8355 (Drug-Free Workplace Act of 1990), which requires that all state grantees provide a drug-free workplace by doing all of the following:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions that will be taken against employees for violations of the prohibition.
2. Establishing a drug-free awareness program to inform employees about all of the following:
  - a. The dangers of drug abuse in the workplace.
  - b. The person's or organization's policy of maintaining a drug-free workplace.
  - c. Any available drug counseling, rehabilitation, and employee assistance programs.
  - d. The penalties that may be imposed upon employees for drug abuse violations.
3. Requiring that each employee engaged in the performance of the grant be given a copy of the drug-free workplace statement and that, as a condition of employment on the grant, the employee agrees to abide by the terms of the statement.

### **XXI. INDEPENDENT CAPACITY**

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

**XXII. ASSIGNMENT**

Without the written consent of the Executive Officer, this agreement is not assignable by the grantee in whole or in part.

**XXIII. TIMELINESS**

Time is of the essence in this agreement.

**XXIV. EXECUTIVE OFFICER'S DESIGNEE**

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

**XXV. AMENDMENT**

Except as expressly provided in this agreement, no change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

**XXVI. LOCUS**

This agreement is deemed to be entered into in the County of Alameda.

**XXVII. SURVIVAL**

The obligations in sections "VII. WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT" and "XII. INDEMNIFICATION AND HOLD HARMLESS" survive the termination of this agreement.

## Exhibit 1

### COASTAL CONSERVANCY

Staff Recommendation

December 2, 2021

#### **MATILIJA DAM ECOSYSTEM RESTORATION PROJECT: ROBLES DIVERSION DESIGN**

Project No. 99-099-06

Project Manager: Sam Jenniches

**RECOMMENDED ACTION:** Authorization to disburse up to \$379,350 to the County of Ventura to conduct planning and to develop design criteria, preliminary design plans and alternatives refinement for improvements to the Robles Diversion and Fish Passage Facility in unincorporated Ventura County.

**LOCATION:** West of Meiners Oaks in unincorporated Ventura County

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#### EXHIBITS

Exhibit 1: [Project Maps](#)

Exhibit 2: [Project Photos](#)

Exhibit 3: [Project Letters](#)

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#### **RESOLUTION AND FINDINGS**

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

##### Resolution:

The State Coastal Conservancy hereby authorizes a grant of an amount not to exceed three hundred and seventy-nine thousand three hundred and fifty dollars (\$379,350) to the County of Ventura ("the grantee") to develop design criteria, preliminary design plans and alternatives refinement for improvements to the Robles Diversion and Fish Passage Facility in unincorporated Ventura County.

Prior to commencement of the project, the grantee shall submit for the review and written approval of the Executive Officer of the Conservancy (Executive Officer) the following:

1. A detailed work program, schedule, and budget.
2. Names and qualifications of any contractors to be retained in carrying out the project.

##### Findings:



Based on the accompanying staff recommendation and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 5.5 of Division 21 of the Public Resources Code, regarding protection and restoration of fish and wildlife habitat in coastal watersheds.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.

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## **STAFF RECOMMENDATION**

### **PROJECT SUMMARY:**

Staff recommends the Conservancy authorize \$379,350 to the County of Ventura to develop design criteria, preliminary design plans, and alternatives refinement for structural and operational improvements to the Robles Diversion and Fish Passage Facility (Robles Diversion) on the Ventura River, in unincorporated Ventura County. Alternatives refinement will be based on the preliminary alternatives developed by AECOM in an ongoing project as well as ongoing Independent Technical Review performed by Northwest Hydraulic Consultants (begun September 2021.)

The redesign of the Robles Diversion is a key component of the Matilija Dam Ecosystem Restoration Project (MDERP) and a pre-requisite to removal of Matilija Dam. The Robles Diversion consists of infrastructure that diverts water from the Ventura River to the Casitas Reservoir during appropriate flows and includes a fish passage facility that enables fish in the river to bypass the diversion to remain in the river. The diversion infrastructure includes a dam that directs water to the diversion headworks and into a canal to Casitas Reservoir. Casitas Municipal Water District (Casitas) operates and manages the Robles Diversion as a component of the Bureau of Reclamation's Ventura River Project. The accumulation of sediment and debris behind the Robles Diversion dam results in costly maintenance, frequent blockage of fish passage, and diversion system outages during storms. Structural and operational improvements are needed for the restored sediment regime from the eventual upstream removal of Matilija Dam to be transported through Robles Diversion. These improvements are also needed to enhance fish passage, water supply reliability (residential and agriculture) and flood protection both upstream and downstream of the Robles Diversion.

The removal of Matilija Dam has been identified as a critical action for the recovery of the federally listed endangered southern California steelhead (*Oncorhynchus mykiss*) in the National Marine Fisheries Services (NMFS) Southern California Steelhead Recovery Plan. Since 1999, the Ventura County Public Works Agency's Watershed Protection District (Watershed Protection) has engaged in a multi-stakeholder effort to remove the sediment-filled Matilija Dam from the Ventura River watershed. The MDERP is a watershed-scale endeavor with a number of downstream components that will provide multiple benefits to endangered species by restoring natural ecosystem function to the Ventura River, its tributaries, and the estuary. It will help to address beach erosion concerns through natural sediment replenishment. The

MDERP will also address current flood risks and other liabilities posed by the obsolete dam and inadequate downstream infrastructure.

The Conservancy has been a primary project partner in MDERP for over two decades and this project will build upon that previous investment, including the 2001 Conservancy funding of implementation of the existing fish passage facility at Robles.

The tasks involved with the proposed project will include:

- Continued Refinement of Design and Sediment Transfer Criteria.
- Development of draft and final Design Criteria Memoranda with key findings and recommendations for project development.
- Model sediment transfer for the no-action and action alternatives.
- Development of draft and final Alternatives Analysis Reports with findings and recommendations for the Preferred Alternative to be carried forward into feasibility.
- Stakeholder workshop to build consensus around the Alternatives Analysis Report, and
- Project management associated with these tasks.

Public outreach has been an important component of MDERP planning. The project proponents conduct twice-yearly public meetings to update stakeholders on project progress, which will include updates on this project. Because Robles is critical infrastructure to Casitas and is subject to a biological opinion on the southern California steelhead, the project will include extensive coordination with Casitas and NMFS.

#### **Site Description:**

The Robles Diversion is located on the Ventura River approximately 14 miles upstream of the Pacific Ocean, and 2.3 miles downstream of Matilija Dam (located on Matilija Creek, the River's largest tributary) (Exhibit 1). The Robles Diversion consists of a forebay, diversion canal headworks, timber cutoff wall, downstream overflow channel, debris fence, and a spillway and spillway channel. The Fish Passage Facility consists of a fish entrance structure, fish ladder, auxiliary water pipeline, fish screens, brushes, a fish guidance device, and both high- and low-flow fish exits. Casitas operates and maintains the facility pursuant to a 2003 NMFS Biological Opinion for the federally endangered Southern Steelhead trout.

The Ventura River Watershed lies in the northeastern part of Ventura County, approximately 80 miles from Los Angeles. The Ventura River watershed is a remarkable watershed for several reasons. Unlike most watersheds in southern California, residents rely 100 percent on local water supplies and the land in the watershed is largely undeveloped. The northern half of the watershed lies within the Los Padres National Forest. Rainfall in the Matilija Wilderness, the river's headwaters, is the highest in Ventura County, with average annual rainfall over twice that at the coast. The steep terrain of the Ventura River watershed, coupled with intense downpours that can occur in its upper portions, result in flash flood conditions where floodwaters rise and fall in a matter of hours. Major or moderate floods with substantial sediment loads have occurred once every five years on average since 1933. The 2017 Thomas

Fire burned more than 95 percent of the upper watershed, and only magnified the sediment challenges confronting critical downstream infrastructure.

At least 65 special-status wildlife species, 54 special-status plant species, and six sensitive natural communities have been documented in the middle reaches of the Ventura River watershed. In addition, the U.S. Fish and Wildlife Service has designated Critical Habitat for six wildlife species.

The primary species to benefit from the project as well as the broader MDERP include the federally endangered southern California steelhead (*Oncorhynchus mykiss irideus*) and federally designated species of special concern, Pacific lamprey (*Entosphenus tridentatus*).

**Grant Applicant Qualifications:** Ventura County's Watershed Protection has been the principal project proponent of the greater MDERP for over two decades and is currently engaged in the Santa Ana Bridge Replacement project and the Camino Cielo Bridge Replacement Design, both downstream components of MDERP and designed with funding from the Conservancy. The Conservancy has a long history of partnering with Watershed Protection. Casitas, the operator of the Robles Diversion, has submitted a letter of support for the project.

#### **CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 23, 2021, in the following respects:

##### **Selection Criteria**

**1. Extent to which the project helps the Conservancy accomplishes the objectives in the Strategic Plan.** See the "Consistency with Conservancy's Strategic Plan" section below.

**2. Project is a good investment of state resources.**

The proposed project, when implemented in the future, would enhance an existing water diversion and fish passage facility and would provide important benefits to Californians as well as the resources of California. Enhancement of the diversion structure would provide Casitas with a reliable method of diverting excess flows of the Ventura River to Casitas Reservoir. Casitas provides water to the majority of the watershed's residents and acts as a backup provider to other water districts and agencies. These water districts supply water to valuable coastal agricultural lands. Enhancements to the fish passage facility will provide more reliable fish passage past the facility for the endangered southern California steelhead as well as the Pacific lamprey.

The project budget is based upon cost estimates developed during the ongoing MDERP design project funded by the California Department of Fish and Wildlife (the Department) and the project goals have been developed in consultation with the Department and NMFS as well as Casitas.

The proposed project is generally consistent with several state plans, and specifically with the

***Southern California Steelhead Recovery Plan*** (NMFS, 2012) and the ***Steelhead Restoration and Management Plan*** (CDFW, 1996). The Ventura River watershed is a priority watershed for recovery in both plans. The 2012 NMFS Recovery Plan includes the following priority recovery action that is furthered by this project:

*Physically modify Casitas, Matilija, and Robles Diversion dams to allow steelhead natural rates of migration to upstream spawning and rearing habitats, and passage of smolts and kelts downstream to the estuary and ocean.*

Matilija Dam is also recognized as a statewide anadromous fish passage priority in the California ***Updated List of Anadromous Fish Passage Statewide Priority Barriers*** (CDFW, 2012).

**3. Project includes a serious effort to engage tribes. Examples of tribal engagement include good faith, documented efforts to work with tribes traditionally and culturally affiliated to the project area.**

The proposed project involves the planned enhancement of existing facilities and not the development of a new facility. Conservancy staff has notified regional tribes in accordance with the Conservancy's Tribal Consultation Policy. The greater MDERP will include a more extensive tribal engagement effort that is currently being developed.

**4. Project benefits will be sustainable or resilient over the project lifespan.**

The proposed project is being developed specifically to ensure that infrastructure is resilient to climate change impacts and to allow the natural systems of the Ventura River to adapt to a changing planet. Changes in precipitation and sediment flow regimes are already present in the watershed and design alternatives will be considered over a range of modeled climate impacts.

**5. Project delivers multiple benefits and significant positive impacts.**

As stated above in the "Project is a good investment of state resources" section, the proposed project, when implemented in the future, would provide both a more reliable water supply system for watershed residents and more reliable fish passage through the mainstem Ventura River. The project is considering the impacts of global climate change in its design.

**6. Project planned with meaningful community engagement and broad community support.**

The MDERP is a multiple-decade project that has involved community engagement throughout its development and has included significant project refinement as a result of community input. The proposed project has been developed out of that process and enjoys broad support.

**PROJECT FINANCING**

<b>Coastal Conservancy</b>	<b>\$379,350</b>
<b>Project Total</b>	<b>\$379,350</b>

The expected source of Conservancy funds for the proposed project is the 2020/21 fiscal year appropriation to the Conservancy from the Habitat Conservation Fund ("HCF") established by the California Wildlife Protection Act of 1990 (Proposition 117), Fish and Game Code §2780 et

seq. HCF funds may be used for the enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources and the enhancement of riparian habitat (Fish and Game Code § 2786(e)(f)).

The proposed project will plan and design for a future aquatic and riparian habitat enhancement project. This future project, which will enhance the Robles Diversion and Fish Passage Facility, is expected to enhance aquatic habitat under a range of conditions and will provide reliable habitat connectivity for steelhead. Thus, the proposed project is an appropriate use of HCF funds.

**CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project will be undertaken pursuant to Chapter 3 of the Conservancy's enabling legislation (Public Resource Code Section 31111), and Chapter 5.5, integrated coastal and marine resources protection (Public Resources Code Section 31220).

Section 31111 permits the Conservancy to award grants to public agencies and non-profit organizations for funding and undertaking plans and feasibility studies. Consistent with this section, the proposed project is a grant to the County of Ventura to plan and design a habitat and water delivery project in Ventura County.

Section 31220 directs the Conservancy to provide grants for coastal watershed and coastal and marine habitat water quality, sediment management, and living marine resources protection and restoration projects. Pursuant to Sections 31220(b)(2)(3) and (6), the Conservancy is authorized to undertake a project or award a grant for a project that protects or restores fish and wildlife habitat within coastal and marine waters and coastal watersheds, that reduces threats to coastal and marine fish and wildlife, and that restores coastal wetlands, riparian areas, floodplains, and other sensitive watershed lands, that drain to sensitive coastal or marine areas. By preparing the pre-implementation plans, designs, and environmental documentation necessary to implement a riparian habitat restoration project, the proposed project will restore fish habitat, reduce threats to coastal and marine fish and wildlife and restore coastal riparian areas. Staff consulted with the State Water Resources Control Board, which confirmed that the project is consistent with Chapter 3 (commencing with Section 30915) (Clean Beaches Program) of Division 20.4 of the Public Resources Code (Watershed, Clean Beaches, and Water Quality Act).

Consistent with Section 31220(c) the proposed project includes preparation of an evaluation component and is consistent with regional, local or State watershed management and water quality plans or programs, as described in the "Consistency with Local Watershed Management Plan/State Water Quality Control Plan" section, below.

**CONSISTENCY WITH CONSERVANCY'S [2018-2022 STRATEGIC PLAN](#) GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 6, Objective C** of the Conservancy's 2018-2022 Strategic Plan, the proposed project develops a plan that enhances a coastal watershed and floodplain.

**CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/STATE WATER QUALITY CONTROL PLAN:**

The facilities associated with the proposed project will further several objectives of section 5.2.3 of the Watersheds Coalition of Ventura County Integrated Regional Water Management Plan, “Ecosystem Protection and Restoration Strategies,” including the following:

- Protect and enhance native ecosystem diversity;
- Protect existing habitats from degradation.

**CEQA COMPLIANCE:**

The proposed project is statutorily and categorically exempt from the California Environmental Quality Act pursuant to 14 Cal. Code Regs. Sections 15262 and 15306, respectively. Section 15262 provides that feasibility and planning studies for possible future actions that have not yet been approved or funded are exempt from the requirement to prepare an environmental document although environmental factors must be considered. Section 15306 provides a categorical exemption for basic data collection and resource evaluation activities that do not result in serious disturbance to an environmental resource. The proposed project qualifies for these exemptions because it consists of planning, environmental evaluation, and information collection for a subsequent project, which has not yet been approved or funded.

Upon approval of the project, Conservancy staff will file a Notice of Exemption.

Exhibit 1: Project Maps

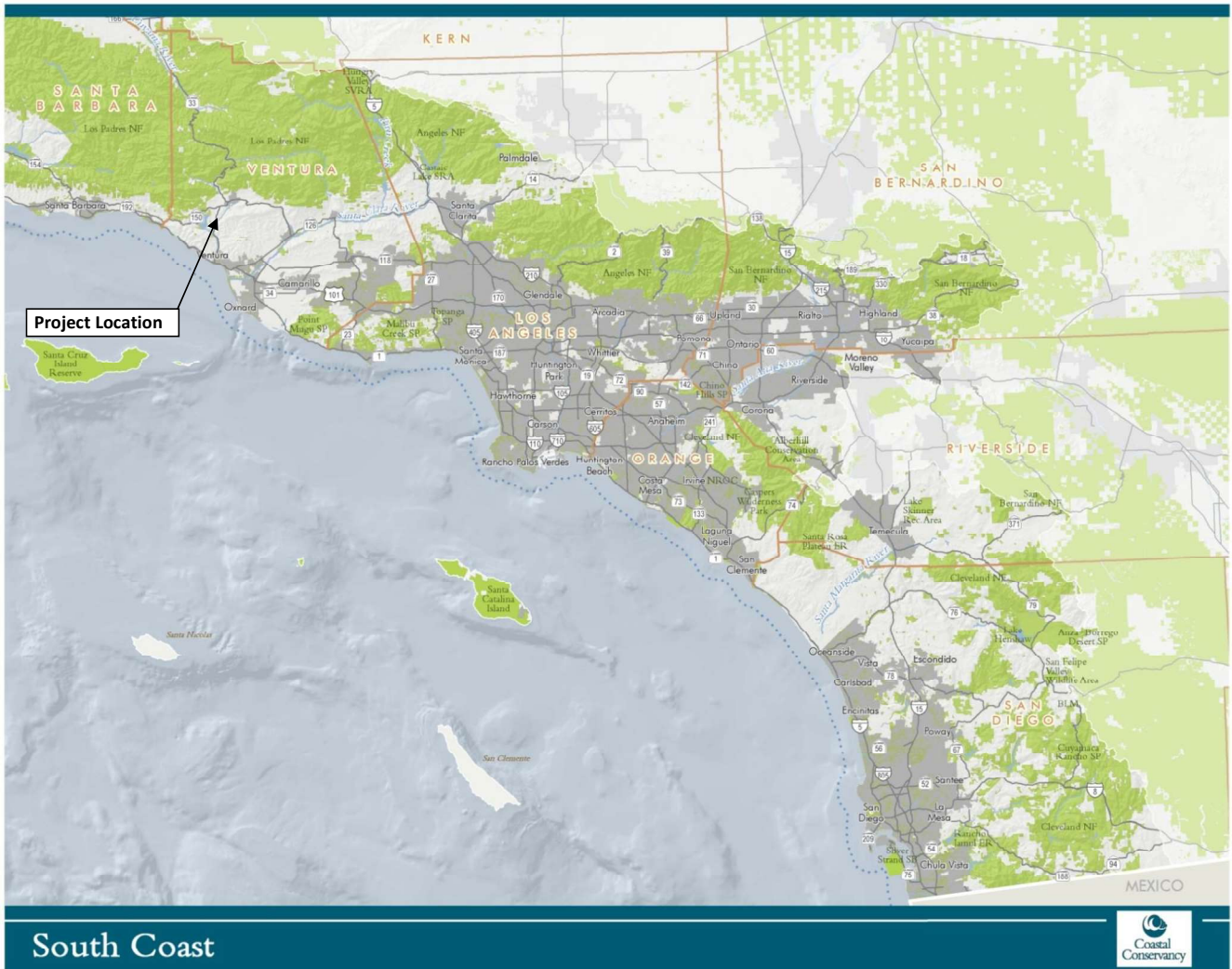




Exhibit 1: Project Maps

