

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



STREAMBED ALTERATION AGREEMENT

EPIMS-CCA-67273-R3
DON COOK CREEK

DIABLO COMMUNITY SERVICES DISTRICT
CREEK BANK STABILIZATION – 2121 ALAMEDA DIABLO PERMANENT REPAIR
PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Diablo Community Services District (Permittee) as represented by Kathy Torru.

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on April 30, 2026, 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 this Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed this 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 this Agreement.

PROJECT LOCATION

The Project is located at Don Cook creek, a tributary to East Branch of Green Valley creek, in the County of Contra Costa, State of California; Latitude 37.83592, Longitude -121.95333; 2121 Alameda Diablo, Diablo, CA 94528; Assessor's Parcel Number 195-250-015-3. See Exhibit A Project Location Map.

PROJECT DESCRIPTION

The Project is limited to permanent embankment repair to stabilize the existing riprap that consists of installation of soil nails through the existing 600 square foot of riprap into native materials, grout the riprap, and apply either a 6-inch-wide steel mesh facing or shotcrete to the riprap, with all work occurring above the ordinary high-water mark (Exhibit B Schematic Designs).

On January 1, 2023, a section of the bank at 2121 Alameda Diablo collapsed into the creek. The failure occurred along 30 feet of approximately 20-foot-high bank and extended approximately 10 feet laterally into the road. A roughly 8-foot-high vertical slope was located at the edge of pavement and slumped soil and vegetation was situated between the toe of the slope and the road.

Emergency stabilization performed in January 2023, consisting of partial removal of slumped embankment materials, excavation of a roughly 18-inch-deep key for the bottom riprap course, placement of filter fabric, and placement of 2-foot-diameter stacked rock riprap into the scoured area from the toe to the top of the bank at road level. The rock riprap was placed at an approximate 1:1 (horizontal:vertical) or flatter incline and included a narrow bench at the top. Other emergency work included removal of mud and debris from two trash racks located in front of the headwalls of two culverts in the creek to prevent property damage from flooding to the surrounding homes.

Equipment expected to be used during the project includes a hydraulic drilling excavator, small support equipment, and a concrete truck. Equipment will be staged and used from Alameda Diablo Road.

No tree removal and/or vegetation clearing will occur. No dewatering is authorized.

Emergency repair permanently impacted approximately 600 square feet of riparian habitat along approximately 30 linear feet of creek bank. The proposed permanent repair will remain entirely within this previously disturbed footprint. Therefore, no additional riparian impacts are anticipated, and the total permanent impact will be approximately 600 square feet to riparian habitat.

PROJECT IMPACTS

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

Scientific Name	Common Name	Status
Amphibians		
<i>Rana draytonii</i>	California red-legged frog	FT, SSC
Multiple species	Native amphibians	
Birds		
Multiple species	Native nesting birds	
Multiple species	Native birds	
Fish		
Multiple species	Native fish	
Invertebrates		
<i>Bombus crotchii</i>	Crotch's bumble bee	SC
Multiple species	Native invertebrates	
Mammals		
Multiple species	Native fossorial mammals	
Multiple species	Native roosting bats	
Reptiles		
<i>Actinemys marmorata</i>	Northwestern pond turtle	SSC
<i>Masticophis lateralis euryxanthus</i>	Alameda whipsnake	FT, ST
Multiple species	Native reptiles	
Plants		
<i>Arctostaphylos auriculata</i>	Mt. Diablo manzanita	CNPS 1B.3
<i>Arctostaphylos manzanita</i> <i>ssp. laevigata</i>	Contra Costa manzanita	CNPS 1B.2
<i>Calochortus pulchellus</i>	Mt. Diablo fairy-lantern	CNPS 1B.2
<i>Centromadia parryi ssp.</i> <i>congdonii</i>	Congdon's tarplant	CNPS 1B.1
<i>Helianthella castanea</i>	Diablo helianthella	CNPS 1B.2
<i>Phacelia phacelioides</i>	Mt. Diablo phacelia	CNPS 1B.2
<i>Viburnum ellipticum</i>	Oval-leaved viburnum	CNPS 2B.3
Multiple species		
In-stream habitat		

Notes: FC = federal candidate species under ESA; FE = federally endangered under ESA; FT = federally threatened under ESA; FP = federally protected under ESA; SE = state endangered under CESA; SR=state rare under NPPA; SCE = state candidate for listing as endangered under CESA; SCT = state candidate for listing as threatened under CESA; SFP= state fully protected; SSC = state species of special concern; ST = state threatened under CESA; WL = CDFW – Watch List.

CNPS ranking system: 1B= plants rare, threatened, or endangered in California and elsewhere; 2B= plants rare, threatened or endangered in California, but common elsewhere. Threat ranks: 0.1= seriously threatened in California; 0.2= moderately threatened in California.

The adverse effects the Project could have on the fish or wildlife resources identified above include:

- Disturbance to nesting birds, roosting habitat for birds, bats, and other wildlife
- Deposition and/or removal of sediment and/or other debris into the channel
- Short-term release of contaminants hazardous to fish and wildlife resources (e.g., concrete leachate, vehicle fluids, sediment, etc.) during construction
- Long-term erosion resulting from increased peak discharge and sheet flow that results from addition of impervious surfaces;
- Permanent impacts to 600 square feet of riparian habitat

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make this Agreement, any extensions and amendments to this 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.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of this Agreement and any extensions and amendments to this Agreement to all persons who will be working on the Project at the Project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in this Agreement might conflict with a

provision imposed on the Project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.

- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the Project site at any time to verify compliance with this Agreement.
- 1.5 Notify CDFW Prior to Work. Permittee shall notify CDFW by email at least five working days prior to commencement of covered activities. See contact information below.
- 1.6 No Trespass. To the extent that any provisions of this Agreement provide for activities that require Permittee to traverse another owner's property, such provisions are agreed to with the understanding that Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.7 Unauthorized Take. Permittee is required to comply with all applicable state and federal laws, including the California Endangered Species Act (CESA) and federal Endangered Species Act. This Agreement does not authorize the take¹ of any state or federal endangered or threatened species. Liability for any take or incidental take of such listed species remains the responsibility of Permittee for the duration of the Project. Any unauthorized take of such listed species may result in prosecution and nullification of the Agreement.
- 1.8 Other Laws and Permits. This Agreement does not relieve Permittee from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project the Agreement covers.
- 1.9 Final 100% Design Plans. Permittee shall submit 100% Design Plans to CDFW at least **7 days** prior to commencement of project activities. If Permittee finds it necessary to update project plans prior to construction, the updated plans will be submitted to CDFW at least **7 days** prior to beginning project activities to determine if an Amendment to this Agreement is required.

¹ Take, as defined in Fish and Game Code section 86, means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. Take, as defined in title 16 of U.S. Code section 1532 subsection 19, means harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt any of those activities.

Project activities shall not proceed until CDFW has accepted the updated plans in writing. At the discretion of CDFW, minor plan modifications may require an amendment to this Agreement. At the discretion of CDFW, if substantial changes are made to the original plans this Agreement becomes void, and the Permittee shall submit a new notification.

- 1.10 Post Construction Walkthrough. Permittee shall contact CDFW within 10 days of project completion to arrange for a post construction walkthrough of the project site to ensure the project has been constructed as designed and that erosion control measures, and remediation efforts have been implemented. Permittee shall act immediately upon CDFW staff request to address concerns discovered during the walkthrough within a mutually agreed upon time period.

2. Avoidance and Minimization Measures

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

Work Period and Weather Restrictions

- 2.1 Seasonal Work Period. To minimize adverse impacts to fish and wildlife and their habitats, project activities within the stream and riparian areas shall be limited from **July 15 to October 31**. The pouring or use of cementitious products (e.g. grouting, pumped concrete, application of sealant, shotcrete, etc.) that come in direct contact with designated streams shall only be performed between July 15 to September 30. Installation of erosion control devices and site remediation activities are excluded from seasonal work period restrictions.
- 2.2 Conduct Work During Daylight Hours. Work is restricted to daylight hour (one hour after sunrise to sunset).
- 2.3 Work Period in Dry Weather Only. With the exception of erosion control work, all other construction activities within the riparian corridor shall be restricted to periods of low rainfall (less than ¼" per 24-hour period) and periods of dry weather (less than a 30% chance of rain). All necessary erosion control measures shall be implemented at least 12 hours prior to the onset of precipitation. No work shall occur during a dry-out period of 24

hours after a precipitation event that produces 0.25 inches or greater of rain within a 24-hour period. Construction activities otherwise halted due to precipitation may resume when precipitation ceases and the NWS 72-hour weather forecast indicates a less than 30 percent chance of precipitation. If work is conducted within 24 hours after a precipitation event that produces less than 0.25 inches of rain within a 24-hour period, additional erosion control materials may be needed to prevent saturated soil from entering the channel. Weather forecasts shall be documented upon request by CDFW. The National Weather Service forecast can be found at: <http://www.weather.gov>.

Biological Monitoring

2.4 Biological Personnel. At least 7 days prior to initiating biological surveys within the project areas, the Permittee shall submit the names and resumes of all Qualified Biologist(s) involved in conducting survey and/or monitoring work to CDFW for review. The Permittee shall obtain CDFW's written approval of Qualified Biologist(s) prior to the commencement of project activities and preconstruction surveys. Resumes shall include, at minimum: educational background, description of experience with each focal species (e.g., visual surveys, auditory surveys, handling, relocation, monitoring, etc.), including number of hours/seasons/years of experience per species, trainings/workshops attended, and certificates or related credentials. Include experience with different life stages of a species, when applicable. To expedite the review period of biological personnel assigned to the project, Permittee is encouraged to use the Biologist Resume Form (Exhibit C), or another format containing the same information, to accompany the provided resumes. Biological personnel are defined under this Agreement as follows:

2.4.1 A Qualified Biologist is an individual who shall have a minimum of five (5) years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two (2) years of cumulative experience conducting surveys for each special-status species potentially present within the project area. The Qualified Biologist shall be knowledgeable and experienced in the biology and natural history of local fish and wildlife resources present at the project site.

- 2.4.2 A Construction Monitor is an individual appointed by the Qualified Biologist who has, at minimum, attended the On-site Education Training (Measure 2.6), has the ability to recognize species in the project area, and has demonstrated familiarity with the habits, habitats, and behavior of those species. The Construction Monitor shall have training in avoidance and minimization measures specific to special-status species potentially present at the site. The Construction Monitor shall be able to demonstrate familiarity with the terms and conditions of this Agreement.
- 2.5 On-Site Monitoring Requirements. A Qualified Biologist shall be present at the project site at all times during: 1) preconstruction clearance surveying, as specified in the measures of this Agreement; 2) administration of the Onsite Worker Education Program; 3) shotcrete application; 3) and all other times where a Qualified Biologist's expertise is necessary (i.e., discovery of special-status species onsite, wildlife are found injured or dead at the project site, etc.). A Construction Monitor with specific training on the special status species outlined in this Agreement shall be present at the project site for all other project activities.

General Wildlife Protection and Prevention

- 2.6 On-Site Education for Personnel. Permittee shall ensure that a CDFW-approved Qualified Biologist conducts an education program for all persons employed on the project prior to performing covered activities. Instruction shall consist of a presentation by the designated Qualified Biologist that includes a discussion of the biology and general behavior of any sensitive species which may be in the area, how they may be encountered within the work area, and procedures to follow when they are encountered. The status of species, including legal protection, penalties for violations, and project-specific protective measures provided in this Agreement shall be discussed. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to on-site project activity. Copies of the Agreement for this project shall be maintained at the worksite with the project supervisor. Permittee or Qualified Biologist shall prepare and distribute wallet-sized cards or a factsheet handout containing this information for workers to carry on-site. Upon completion of the program, employees shall sign an affidavit stating they attended the program and understand all protection

measures. These forms shall be filed at the Permittee's office and be available to CDFW upon request.

- 2.7 Daily Inspections. At the beginning of each workday, a Qualified Biologist or Construction Monitor shall inspect the project area unless otherwise approved in writing by CDFW. If special status species are encountered during project activities, all work shall cease and CDFW shall immediately be notified. Work shall not proceed without written approval from CDFW.
- 2.8 Wildlife Encounters. If any wildlife is encountered during the course of construction, all work in the immediate area shall cease and the wildlife shall be allowed to leave the construction area unharmed. If any listed fish and wildlife are encountered, Permittee shall contact CDFW immediately.
- 2.9 Relocation of Wildlife. If wildlife within the project site does not move out of harm's way of its own volition, a Qualified Biologist may relocate the individual to the nearest appropriate habitat located outside of and downstream of the project site. Only a Qualified Biologist with any necessary State and federal permits may relocate wildlife. This measure does not allow for the take or disturbance of any State or federally listed species, or State Species of Special Concern. Measures shall be taken to avoid harm and mortality resulting from relocation activities. A record shall be maintained of all wildlife relocations and shall include the date of capture, the method of capture, the location of movement relation to the project site, and the number and species moved. The record shall be provided to CDFW within two weeks of the completion of the work season or project activities, whichever comes first.
- 2.10 Trenches and Holes. At the end of each workday all trenches and holes greater than one foot deep shall be completely covered with a material flush with the ground to prevent wildlife from entering. When trenches cannot be fully covered, an escape ramp shall be placed at each end of any constructed open trench to allow any wildlife that may have become entrapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees.
- 2.11 Pipes, Hoses and Similar Structures. All pipes, hoses, or similar structures less than 12 inches in diameter shall be closed or covered to prevent animal

entry. All construction pipes or similar structures greater than two inches in diameter stored at the project site overnight shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

- 2.12 Fence and Signpost Restriction. Any fencing, signposts, or poles installed temporarily or permanently throughout the course of the project at a positive angle shall have the top capped and/or the top three post holes covered or filled with screws or bolts to prevent the entrapment of wildlife. No barbed wire shall be allowed where (e.g., as top-wire on tiered fencing) it may result in harm to birds and other wildlife.

Vegetation Protection

- 2.13 No Tree Removal. No tree removal greater than 4-inches diameter at breast height (DBH) is authorized under this Agreement.
- 2.14 Vegetation Marked for Protection. Prior to project activities, the Permittee shall clearly mark all vegetation within the project area to indicate that it will be entirely avoided during project activities.

Nesting Bird Surveys, Prohibition, and Buffers

- 2.15 Active Nest Avoidance. Permittee shall avoid active nests occurring at or near the Project site. Permittee is responsible for complying with Fish and Game Code section 3503 et seq.
- 2.16 Nesting Bird Survey. Permittee is responsible for ensuring that project activities does not result in any violation of relevant Fish and Game Codes. If project activities will occur during nesting bird season (February 15 to September 15), the Qualified Biologist(s) shall conduct focused surveys for active nests within five (5) days prior to the initiation of project-related activities. Surveys shall be conducted in all potential habitat located at, and adjacent to, project(s) sites and in staging and storage areas. The minimum survey radii surrounding the work area shall be the following: (1) 250 feet for non-raptors; (2) and 1,000 feet for raptors such as Buteo spp. Survey methodology shall be submitted by the Qualified Biologist(s) to CDFW for approval at least seven (7) days prior to the initiation of surveys. Survey results shall be submitted to CDFW prior to the commencement of

project activities. If a lapse in project-related activities of seven days or longer occurs, another focused survey shall be required before project activities can be reinitiated. If an active nest is found, Permittee shall consult with CDFW regarding appropriate action to comply with the Fish and Game Code of California. CDFW reserves the right to provide additional provisions to this Agreement designed to protect nesting birds.

- 2.17 Active Bird Nest Protection. Qualified Biologist(s) shall observe any identified active nests prior to the start of any project activities to establish a behavioral baseline of the adults and any nestlings. Once such activities commence, all active nests should be continuously monitored by Qualified Biologist(s) to detect any signs of disturbance and behavioral changes due to project activities as determined by Qualified Biologist(s).

Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards Project personnel, standing up from a brooding position, and flying away from the nest. The Qualified Biologist(s) shall have authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (i.e., nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

- 2.18 Active Bird Nest Buffers. Active nest sites and protective buffer zones shall be designated as Environmentally Sensitive Area(s) (ESA) where no project-related activities or personnel may enter that area at any time until the nestlings have fully fledged, and the nest is not occupied. The ESA shall be established by either a fence barrier or flagging surrounding the nest site. Qualified Biologist(s) shall determine the necessary buffer, in consultation with CDFW, to protect nesting birds based on existing site conditions, such as construction activity and line of sight, and shall increase buffers if needed to provide sufficient protection of nesting birds and their natural behaviors.

Special-Status Species Specific Measures

- 2.19 California Red-legged Frog. A Qualified Biologist shall conduct a focused survey for California red-legged frog (CRLF) no more than **48 hours** prior to initiation of ground disturbance activities. Surveys shall include an adequate examination of mammal burrows and aquatic habitat, such as

plunge pools and ponds, within a 500-foot radius surrounding the Project area. If CRLF are encountered at any time during the survey or Project activities, then all Project activities shall cease and CDFW shall be immediately notified. Work shall not proceed until the frog has moved out of harm's way, as determined by the Qualified Biologist, and CDFW has provided written permission to proceed with Project activities. All CRLF sightings and/or injuries shall be reported to CDFW within **24 hours** and included in the Project Completion Report (see Measure 4.4).

- 2.20 Alameda Whipsnake. Prior to initiating project activities each day, a Qualified Biologist or Construction Monitor shall conduct a clearance survey for AWS within the project area, access routes, and staging areas. If AWS are discovered on site, work shall be placed on hold until Permittee can demonstrate compliance with CESA to CDFW's satisfaction.
- 2.21 Halt Work for Snakes or Salamanders. If a snake or salamander species of any kind is observed during any point of the project, all work within 200 feet of the observation shall immediately halt and the individual shall be allowed to leave the work area on its own accord. The Qualified Biologist or Construction Monitor shall monitor the individual continuously, until they can confirm that the individual has left the work area including any staging areas, under vehicles, or access routes before work shall be allowed to commence. Work shall not resume within 200 feet of the individual until the Qualified Biologist or Construction Monitor confirms the individual is absent from the project area.
- 2.22 Northwestern Pond Turtle. Within the 48 hours prior to initiating project activities, the Qualified Biologist shall conduct a clearance survey for northwestern pond turtle (NWPT) individuals and identify potential NWPT nesting habitat. "Potential nesting habitat" is defined as aquatic habitat, such as ponds, lakes, reservoirs, wetlands, and deep pools in streams or rivers, and upland loose soils, sands, sediment bars, grassy areas, or duff that is within 1,500 feet of a waterway where breeding or hibernation may occur. Terrestrial "potential habitat" includes basking sites (e.g., rocks or large woody debris, emergent instream features). If NWPT individuals or nests are discovered on-site, work shall be placed on hold until CDFW has been consulted and provide written approval to perform project activities.

2.23 Bats. For all project activities planned in potential bat roosting habitat, such as road crossings, culverts, and/or involving woody vegetation modification, the Qualified Biologist shall conduct extensive daytime and evening visual surveys for bats and for potential habitat at least 14 days prior to initiation of construction activities. Bats observed in or adjacent to the project area shall be assumed present in the project area for foraging. If roosting bats are found onsite, the Qualified Biologist shall identify the species, estimated quantity present, roost type, and roost status, but shall avoid disturbing bats during surveys. Permittee or the Qualified Biologist shall notify CDFW within 24 hours if bats are found during surveys.

Concrete and Rock Slope Protection

2.24 Concrete – Construction Monitor. At all times when the Permittee is pouring or working with wet concrete there shall be a construction monitor to inspect the containment structures and ensure that no concrete or other debris enters into the channel outside of those structures.

2.25 Concrete – Containment. Permittee shall install the necessary containment structures to control the placement of wet concrete and to prevent it from entering into the channel outside of those structures. No concrete shall be poured or applied within the high flow line if the 10-day weather forecast indicates any chance of rain greater than 20 percent.

2.26 Cement-Based Products. All cement-based products (concrete, mortar, etc.) poured or applied wet onsite shall be excluded from the wetted channel or areas where they may come into contact with water for a period of **30 days** after application. During that time the product shall be kept moist and runoff from the product shall not be allowed to enter the stream. Commercial sealants may be applied to the product surface or mixture where difficulty in excluding flow for a long period may occur. If sealant is used, water shall be excluded from the site until the sealant is cured.

2.27 Rock Slope Protection. Permittee shall stabilize the existing riprap according to the project description. Asphalt shall not be considered an acceptable material.

- 2.28 Fill Voids in Rock Slope Protection. If 6-inch-wide steel mesh facing is used, Permittee shall ensure that all voids and spaces within the riprap are filled with smaller rock, gravels, and native soil material, and/or native shrubs.
- 2.29 Long Term Bank Stability. Permittee shall ensure that bank stabilization is maintained according to the final design plans. Permittee shall be responsible for all repairs if the rock type, shape, and/or size result in latent erosion, unintended scour, bank failure, and/or other degradation of the channel that may contribute to downstream sedimentation or overall habitat degradation. If degradation occurs post-implementation such that a section of bank is not stabilized as designed, Permittee shall contact CDFW to discuss remediation measures. A new Notification may be required for work necessary to remediate damage resulting from any such degradation or failure.
- 2.30 Geotextile Fabric. Permittee shall not use geotextile fabrics for permanent use in the project (e.g. underneath hydraulic dissipation features such as rock slope protection). Temporary use of geotextile fabrics for the purposes of exclusion or silt fencing is permissible under the condition that they are removed immediately after completion of the project.

Equipment and Vehicles

- 2.31 Operating Equipment and Vehicle Leaks. Any equipment or vehicles driven and/or operated adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat.
- 2.32 Equipment Storage. Staging and storage areas for equipment, materials, fuels, lubricants, and solvents, shall be located outside of the stream channel and banks.
- 2.33 Refueling of Equipment. Refueling of construction equipment and vehicles shall be done outside of the stream and riparian habitat, as far away from the stream as possible, and in a manner that spilled fuel could not drain to a water body. Appropriate absorbent pads and secondary containment materials shall be placed underneath the construction equipment and vehicles, when refueling, to capture incidental spillage of fuels. Equipment

and vehicles operating in the project area shall be checked and maintained daily to prevent leaks of fuels, lubricants, or other liquids.

Erosion and Sediment Control

2.34 Erosion Control. At no time shall silt laden runoff be allowed to enter a river, stream, or lake or directed to where it may enter a river, stream, or lake. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river, stream, or lake. Erosion control measures, such as silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever sediment has the potential to leave the work site and enter the river, stream, or lake.

2.35 Monofilament. Permittee shall not use erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting within the project area due to documented evidence of amphibians and reptiles becoming entangled or trapped in such material. Acceptable substitutes include coconut coir matting or similar.

2.36 No New Phase Without Erosion Control. No phase of the project may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that construction phase may cause the introduction of sediments into the stream. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted prior to initiation of any phase of the project that may result in sediment runoff to the stream.

2.37 Erosion Control Monitoring. Permittee shall monitor erosion control measures during and after each storm event and repair and/or replace ineffective measures immediately.

2.38 No Dewatering. No dewatering is authorized under this Agreement.

Material Handling, Debris, and Waste

2.39 No Dumping. Permittee and all contractors, subcontractors, and employees shall not dump any litter or construction debris within the stream, or where it may pass into the stream.

- 2.40 Pick Up Debris. Permittee shall pick up all debris and waste daily.
- 2.41 Wash Water. Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
- 2.42 Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, and/or barriers from the project site and vicinity of the stream upon completion of project activities.

Toxic and Hazardous Material

- 2.43 Toxic Material. Any hazardous or toxic materials that could be deleterious to aquatic life that could be washed into the stream, or its tributaries shall be contained in watertight containers or removed from the project site.
- 2.44 Hazardous and Deleterious Material. Debris, soil, silt, bark, slash, sawdust, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, wildlife, or riparian habitat resulting from the Project related activities shall be prevented from contaminating the soil and/or entering the Waters of the State.

Spills and Emergencies

- 2.45 Spill of Material Deleterious to Fish and Wildlife. In the event of a hazardous materials spill into a stream (e.g., concrete or bentonite), Permittee shall immediately notify the California Office of Emergency Services State Warning Center by calling 1-800-852-7550 and immediately provide written notification to CDFW by email at R3LSA@wildlife.ca.gov. Permittee shall take all reasonable measures to document the extent of the impacts and affected areas including photographic documentation of affected areas, injured fish and wildlife. If dead fish or wildlife are found in the affected area, Permittee shall collect carcasses and immediately deliver them to CDFW. Permittee shall meet with CDFW within ten days of the reported spill in order to develop a resolution including: site clean-up, site remediation and compensatory mitigation for the harm caused to fish, wildlife and the habitats on which they depend as a result of the spill. The Permittee shall be

responsible for all spill clean-up, site remediation and compensatory mitigation costs. Spill of materials to waters of the state that are deleterious to fish and wildlife are in violation of Fish and Game Code section 5650 et seq. and are subject to civil penalties for each person responsible. CDFW reserves the right to refer the matter to the District Attorney's Office if a resolution cannot be agreed upon and achieved within a specified timeframe, generally six months from the date of the incident.

- 2.46 Spill Containment. All activities performed in or near a river, stream, or lake shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the cleanup activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.

3. Remedial Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

- 3.1 Mitigation and Monitoring Plan. Permittee shall submit a Mitigation and Monitoring Plan (MMP) to CDFW for review and written approval at least 14 days prior to initiating project activities. The MMP shall identify all resources potentially impacted by the project, specify required mitigation measures for any adverse effects, and establish monitoring protocols to evaluate and ensure the effectiveness of these measures. The MMP shall also include long-term monitoring of bank stability and provide procedures to remediate and repair any rock type, shape, or size conditions that result in latent erosion, unintended scour, bank failure, or other channel degradation that could contribute to downstream sedimentation or overall habitat degradation. The MMP shall be fully implemented for a minimum of ten (10) years following project completion.
- 3.2 Site Remediation. To stabilize the slope and establish native vegetation recovery, Permittee shall install 10 willow stalks along the toe of the slope at 3-foot spacing. Additionally, Permittee shall plant 12 native shrubs, such as Wild Grape or California Wild Rose, on the slope using planter pockets

at 6-foot spacing, alternating and staggered between rows. All plant materials should be locally sourced, and installation should occur during the appropriate planting season to ensure successful establishment. Remediated areas shall be monitored for at least three (3) years after planting to confirm plant survival and effectiveness in reducing erosion. The annual status of the remediation efforts shall be submitted to CDFW for review and concurrence via email to the representative listed in the contact information section below, referencing Notification Number EPIMS-CCA-67273-R3.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 Resumes for Biological Personnel. Per Measure 2.4, at least **7 days** prior to initiating fish and wildlife surveys within the project site, Permittee shall submit by email the names and resumes of all biological personnel involved in conducting survey and/or monitoring work to CDFW for review and written approval. Permittee is encouraged to use the Biologist Resume Form found in Exhibit C to facilitate review and approval of resumes. Notification shall be sent by email to the representative listed in the contact information section below, referencing Notification Number EPIMS-CCA-67273-R3.
- 4.2 Biological Survey Results. The results of all biological surveys, including a description of timing, duration, and methods used, shall be submitted to CDFW within **5 days** of each survey. Permittee is encouraged to combine survey results for multiple sites and multiple species into a single document. Permittee shall upload Biological Survey results to the EPIMS Permitting Portal and email the representative listed in the contact information section below, referencing Notification Number EPIMS-CCA-67273-R3.
- 4.3 Photographic Documentation of Work. Prior to commencement of work a minimum of four (4) vantage points that offer representative views of the Project site and work areas shall be identified. Permittee shall photograph project area from each of the vantage points, noting the direction and magnification of each photo. Upon completion of work, Permittee shall photograph post-project conditions from the vantage points using the same direction and magnification as pre-project photos. Pre- and post-

project photos shall be submitted with Project Completion Report (see Measure 4.4).

- 4.4 Project Completion Report. A Project Completion Report shall be uploaded to the EPIMS data portal within **60 days** of completion of all project-related activity. This report shall include, at minimum, the following: 1) dates that construction activities occurred; 2) pertinent information concerning the success of the project in meeting avoidance and minimization measures; 3) summaries of wildlife relocations, wildlife injuries and mortalities, and special status species documented at the project site; 4) copies of any CNDDDB submissions made during the course of project related activities; 5) photographs of post-construction results (see Measure 4.3); and 6) the as-built designs of the completed work. An explanation of failure to meet any measures specified in this Agreement shall also be included, if applicable. Permittee shall upload the Project Completion Report to the EPIMS Data Portal and email the representative listed in the contact information section below, referencing Notification Number EPIMS-CCA-67273-R3.
- 4.5 Mitigation Monitoring Reports. Permittee, in consultation with the Qualified Biologist, shall compile Mitigation Monitoring Report summarizing the results of all mitigation and remediation activities to be monitored for ten (10) years, with monitoring and reporting required in years 1-3, 5, 7 and 10. Permittee shall upload the Mitigation Monitoring Report to the EPIMS Data Portal and email the representative listed in the contact information section below, referencing Notification Number EPIMS-CCA-67273-R3.
- 4.6 Notification to the California Natural Diversity Database. If any special-status species are observed during project implementation, the Permittee shall submit the California Natural Diversity Data Base (CNDDDB) Online Field Survey Form electronically at <https://www.wildlife.ca.gov/data/CNDDDB/submitting-data> within five (5) days of the sightings and provide a copy of "receipt" of the submission or the form, survey map and/or report to the CDFW's Regional office as instructed in Contact Information section below.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through Environmental Permit Information Management System (EPIMS) as instructed by CDFW.

To Permittee:

Diablo Community Services District
Attn: Kathy Torru
EPIMS-CCA-67273-R3
Creek Bank Stabilization – 2121 Alameda Diablo Permanent Repair Project
1701 El Nido Unit 321
Diablo, CA 94528
generalmanager@diablocsd.org

To CDFW:

Department of Fish and Wildlife
Bay Delta Region
EPIMS-CCA-67273-R3
creek Bank Stabilization – 2121 Alameda Diablo Permanent Repair Project
Sanjay.Das@wildlife.ca.gov or R3LSA@wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of this 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 this Agreement authorizes.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if CDFW 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 this Agreement, in accordance with section 723 of title 14 of the California Code of Regulations.

Before CDFW suspends or revokes this Agreement, it shall provide Permittee written notice 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 this 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 this Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking this Agreement.

Nothing in this 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 this 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 this 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 this 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 use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of this 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 this Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of this Agreement, provided the request is made prior to the expiration of this Agreement's term. To request an extension,

Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

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

EFFECTIVE DATE

This 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://wildlife.ca.gov/Conservation/Environmental-Review/CEQA/Fees>.

TERM

This Agreement shall expire on **December 31, 2030**, unless it is terminated or extended before then. All provisions in this 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 this Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

EXHIBITS

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

- A. Exhibit A. Project Location Map, submitted by Diablo Community Services District, dated April 30, 2026
- B. Exhibit B Schematic Designs, submitted by Diablo Community Services District, dated April 30, 2026
- C. Exhibit C Biologist Resume Form (CDFW 2022)

AUTHORITY

If the person signing this 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 this 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

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

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