***Example Template for a***

***Compensatory Mitigation Plan for Impacts to Non-Wetland Aquatic Resources***

**(*such as for Overwater Structures Impacts in Marine Waters in the Seattle District, U.S. Army Corps of Engineers)***

*DRAFT REV 2/1/23*

*This example template does not replace or modify any of the existing laws and policies relating to compensatory mitigation. Instructions are in italicized text.*

**Compensatory Mitigation Plan for**

*Project Name*

*Applicant’s Name*

*Location, Waterbody*

*Date Plan Was Prepared*

*Prepared by Name*

**1. Project Description**

*Provide a brief description of the development project and the types of activities that will impact aquatic resources. If a more detailed project description is available in other documents in the application package, this section should just summarize the project description and cite the more detailed document(s). For example,* The project proposal is to construct a 4- by 100-foot pier and install a 4- by 50-foot grated aluminum ramp and a 6- by 15-foot float. Etc.

**2. Existing Conditions of Aquatic Resources**

*Provide brief description of aquatic resources (i.e., presence of vegetated shallows, presence and distribution of eelgrass and kelp and potential and documented forage fish spawning habitat, etc).*

**3. Avoidance and Minimization of Aquatic Resource Impacts**

*Describe how adverse impacts, both direct and indirect, to aquatic resources will be avoided and minimized by the project to the greatest extent practicable. This should include consideration of project location, design, construction practices, monitoring efforts and/or other relevant factors.*

*Examples of avoidance and minimization measures: Retaining native vegetation along the bank where possible; relocating or reconfiguring pier, ramp, float, buoy to avoid eelgrass or kelp beds; minimizing width of structures; grating surfaces; working within established Corps work windows.*

*Note: If the project meets all construction specifications for the most current Regional General Permit Conditions or ESA Programmatic Consultation, simply state: The project meets all construction specifications for the most current Regional General Permit ## Conditions or ESA Programmatic Consultation for XX to avoid and minimize impacts.*

**4. Unavoidable Aquatic Resources Impact Acreage**

*Summarize the acreage of unavoidable aquatic resource impacts expected using a table similar to the following examples. Attach corresponding drawings.*

**Example Table 1**

**Expected Impacts to Aquatic Resources**

| **Resource Identifier** | **Area Shaded (sq ft)** | **Permanently Impacted** **Waters of the U.S.** **(sq ft)** | **Temporarily Impacted** **Waters of the U.S.** **(sq ft)** | **Permanently Impacted** **Riparian Area** **(sq ft)** | **Temporarily Impacted** **Riparian Area** **(sq ft)** |
| --- | --- | --- | --- | --- | --- |
| High Tide Line – xx feet (MLLW) |  |  |  |  |  |
| Xx |  |  |  |  |  |
| Xxx |  |  |  |  |  |
| **TOTALS** |  |  |  |  |  |

**5. Impacted Aquatic Resource Functions**

*Describe the functions that are expected to be lost or altered. For example,* “In the marine nearshore, overwater structures (OWS) may impede the nearshore movements of juvenile salmonids with fish stopping at the edge of the OWS and avoiding swimming into the shadow or underneath the structure which may force them temporarily into deeper habitat, thereby exposing them to increased piscivorous predation resulting in increased mortality. The reduced light regime under OWS could result in temporarily decreased visual ability and decreased feeding success for those juveniles that do swim under residential floats and in the short-term may result in decreased feeding success which could result in incrementally reduced growth and the decreased visual ability can lead to predation”.

**6. Mitigation Site Selection Rationale**

*If there is a Third Party Contractor (i.e., a salmon enhancement group), they should help you identify the location of their restoration site and its ecological relationship or ties to the resources at the location of the proposed OWS; for example, the relative close distance between the two sites; the similarity of resources and habitats, etc. Include a map showing the address and latitude and longitude of the mitigation site. Describe if it is part of a larger restoration project (i.e., your project is removal of 50 linear feet of a 300 linear foot bulkhead).*

**7. Determination of Mitigation Credits**

*A description of the number of credits to be provided, including a brief explanation of the rationale for this determination. (See §332.3(f).)(i) For permittee-responsible mitigation, this should include an explanation of how the compensatory mitigation project will provide the required compensation for unavoidable impacts to aquatic resources resulting from the permitted activity. (ii) For permittees intending to secure credits from an approved mitigation bank or in-lieu fee program, it should include the number and resource type of credits to be secured and how these were determined. For example, if activity is in marine waters of Puget Sound, an applicant could choose to use the Corps’ optional method for calculating Corps compensatory mitigation credits utilizing NMFS’ Nearshore Conservation Calculator. Contact a Corps project manager for more information on this option.*

**8. Mitigation Work Plan and Description of Aquatic Functions Provided at Mitigation Site**

*Provide a work description of the mitigation project and functions that are expected to be provided at the mitigation site. For example,* “At the mitigation site, 100 linear feet of hardened bank protection will be removed and a natural shoreline will be restored. This will enhance and restore the nearshore habitat for juvenile salmonids and the improvements will offset the impacts to the nearshore by the proposed OWS”. *Include drawings and/or plans showing the mitigation work.*

1. **Site protection instrument***. A description of the legal arrangements and instrument, including site ownership, that will be used to ensure the long-term protection of the compensatory mitigation project site (see §332.7(a)). Examples could include a restrictive covenant, conservation easement, or listing on deed. If there is a Third Party Contractor (i.e., a salmon enhancement group), they can help you prepare these documents.*
2. **Maintenance plan and adaptive management plan**. *A description and schedule of maintenance requirements to ensure the continued viability of the resource once initial construction is completed. If there is a Third Party Contractor (i.e., a salmon enhancement group), they can help you prepare these plans. A management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation project, including the party or parties responsible for implementing adaptive management measures. The adaptive management plan will guide decisions for revising compensatory mitigation plans and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. (See §332.7(c*).
3. **Performance standards**. *Ecologically-based standards that will be used to determine whether the compensatory mitigation project is achieving its objectives. (See §332.5.) If the project is to remove structures, the one performance standard is that the structure will be removed to a location not in a water of the U.S. within a certain time period.*
4. **Monitoring requirements**. *A description of parameters to be monitored in order to determine if the compensatory mitigation project is on track to meet performance standards and if adaptive management is needed. A schedule for monitoring and reporting on monitoring results to the district engineer must be included. (See §332.6.) This may simply involve the submittal of as-built drawings and photographs.*
5. **Long-term management plan**. *A description of how the compensatory mitigation project will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management. (See §332.7(d).) Depending on the details of the site protection instrument, a long-term management plan may not be required*.
6. **Financial assurances.** *A description of financial assurances that will be provided and how they are sufficient to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with its performance standards (see §332.3(n*)).