



California Department of Fish and Wildlife
Bay Delta Region
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534

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HABITAT CONSERVATION
PLANNING BRANCH

California Endangered Species Act
Incidental Take Permit No. 2081-2015-041-03

**ISABEL AVENUE (STATE ROUTE 84)/INTERSTATE 580 INTERCHANGE IMPROVEMENTS
(CALTRANS PROJECT NO. EA 04-171300) (CIP 19923866) OFF-SITE WETLAND MITIGATION PROJECT**

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

Permittee:	City of Livermore
Principal Officer:	Roberto Escobar
Contact Person:	Jennifer Haire, (916) 231-9575
Mailing Address:	1052 South Livermore Avenue Livermore, CA 94550

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2023**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.8 of this ITP.

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

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

Project Location:

The Isabel Avenue (State Route 84)/Interstate 580 (I-580) Interchange Improvements (Caltrans Project No. EA 04-171300) (CIP 19923866) Off-site Wetland Mitigation Project (Project) is located northwest of Livermore at the end of Doolan Road and approximately 3 miles north of I-580 in unincorporated land within Alameda and Contra Costa Counties (Figure 1).

Project Description:

The City of Livermore (Permittee) plans to mitigate for the permanent loss of 0.179 acres of seasonal wetland swale from construction of the Isabel Avenue (SR 84)/I- 580 Interchange Improvements Project at the Doolan Canyon property in Alameda and Contra Costa counties. The Permittee partnered with the East Bay Regional Park District (EBRPD) to fund land acquisition and habitat management of a portion (210.8 acres) of the 640-acre Doolan Canyon property (Figure 2). EBRPD has acquired the parcel as a future addition to its regional park system and will be designating it as a preserve. The Permittee is proposing to fulfill habitat compensation requirements at the Doolan Canyon property for impacts on threatened and endangered species from the Isabel Avenue (SR 84)/I-580 Interchange Improvements Project (Consistency Determination 2080-2008-024-03), El Charro Specific Plan, and Livermore Toyota Dealership Project.

The Project includes construction a 0.40-acre seasonal wetland at the Doolan Canyon property to mitigate, as required by the Army Corps of Engineers, U.S. Fish and Wildlife Service (USFWS), San Francisco Bay Regional Water Quality Control Board, and CDFW through the Lake and Streambed Alteration Agreement (Notification No. 1600-2007-0649-03, approved by Operation of Law on March 7, 2008) for the permanent loss of seasonal wetland swale from construction of the Isabel Avenue (SR 84)/I-580 Interchange Improvements Project. Permits for the Isabel Avenue (SR 84)/I-580 Interchange Project required the creation of 0.358 acres of seasonal wetland to compensate for permanent impacts on 0.179 acres of seasonal wetland swale (i.e., compensation at a 2:1 ratio). A larger seasonal wetland is proposed for construction to account for the temporal loss between construction of the Isabel Avenue (SR 84)/I-580 Interchange Project and creation of the wetland.

The seasonal wetland will be constructed at the location known as "Site 3" in the southeast corner of the Doolan Canyon property, north of Pond 10 (Figure 2). The seasonal wetland will have an outlet elevation of 862.7 feet and a bottom elevation of 862.5 feet. The storage volume at maximum capacity (862.7 feet water surface elevation) will be 0.057 acre-feet and the depth of ponded water in the wetland at capacity will be 1.7 inches.

The wetland will mimic a small depressional wetland. The wetland bottom will be set approximately at the elevation midway up slope to allow for balancing cut and fill soils within the wetland. The wetland bottom will be graded flat. A two-inch tall earthen berm with a notched spillway will be constructed on the southern side of the wetland. The spillway will be located near an existing swale that directs water across the road and into the intermittent drainage downslope. The seasonal wetland was designed to have saturated soil for the timeframe needed to meet the wetland hydrologic criterion for an existing wetland and support wetland vegetation but not pond water that would attract California tiger salamander or California red-legged frog to the area for reproduction. Soil on the north side of the wetland will be excavated at a 2:1 slope and tied into the existing hillslope that is steeper than 2:1. A 3:1 berm on the south side of the wetland would be keyed into the existing hillslope. Grading will achieve a balance that will not require any spoils placement in adjacent annual grasslands. The water

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source for the wetland will be runoff from the surrounding hillslope and direct precipitation. After the seasonal wetland contours have been established and finish grading activities are complete, native wetland vegetation will be planted. A total of 1,940 containerized native plants will be installed in the bottom of the newly created feature. These plantings consist of 970 salt grass (*Distichlis spicata*), 194 spikerush (*Eleocharis macrostachya*), 291 Baltic rush (*Juncus balticus*), 291 alkali heath (*Frankenia salina*) and 194 sedge (*Carex* sp.).

The seasonal wetland creation site will be accessed by traveling north along Doolan Road, along the west side of the Doolan Canyon property and then continuing to follow the road to the east and south until arriving at Site 3 (Figure 2). Heavy equipment will be offloaded on a flat area on Doolan Road and then driven on the road to the site. Equipment and material will be staged in the southwestern portion of the seasonal wetland creation site.

Construction of the seasonal wetland is anticipated to take two to three weeks to complete. Following the construction of the wetland, the Permittee will provide a post-construction report to document the as-built conditions of the created wetland.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³
2. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Threatened ⁴

These species and only these species are the "Covered Species" for the purposes of this ITP.

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above that are expected to result in incidental take of individuals of the Covered Species include mowing, excavation, grading, compacting, filling, and vehicle operation (Covered Activities). Incidental take of individuals of the Covered Species may occur from the Covered Activities in the form of mortality ("kill") from stripping, excavating, soil placement, planting, and other activities. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from vehicle operation, compacting, filling, excavating, grading, trampling, and relocation. Take could occur within the limits of the grading at the Doolan Canyon property or the access roads (Project Area) (Figure 2).

The Project will cause the permanent loss (due to conversion) of 0.40 acres of upland habitat for the Covered Species and temporary loss of 0.77 acres of upland habitat including grading and soil placement. Grassland areas that are temporarily disturbed would be restored to pre-Project or better conditions. Impacts of the proposed taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's

³ See Cal. Code Regs. tit. 14 § 670.5 (b)(3)(G).

⁴ See *Id.*, subd. 670.5 (b)(6)(E).

incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular, ingress and egress, staging and parking, and noise and vibration generating activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2005062129) adopted by California Department of Transportation on August 17, 2007 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Proposed U.S. Interstate 580/Isabel Avenue Interchange Construction Project in the City of Livermore in Alameda County, California (Caltrans EA 171300) on the Threatened California Tiger Salamander, Threatened California Red-legged Frog, and the Endangered San Joaquin Kit Fox (official Biological Opinion No. 1-107-F-0280) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
5. **General Provisions:**

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- 5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 5.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the biological monitor(s) (collectively, "Designated Biologist") at least 30 days before starting Covered Activities. Permittee shall ensure that all Designated Biologists are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.
- 5.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed

at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be removed and disposed of daily.

- 5.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 5.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 5.10. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.11. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds on overland access routes and dirt roads do not exceed 10 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.
- 5.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

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- 5.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project sites, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Biologist shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. Daily Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP.
- 6.4. Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 7.1.
- 6.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the

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timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 6.6. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.7. CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 6.9. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall immediately provide initial notification to CDFW by calling the CDFW Representative at (707) 644-2812. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within 24 hours of the discovery. The report shall include the date and time of the finding or

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incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.

6.9.1. California tiger salamander. If the Covered Species is found recently deceased, a ½-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention: Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.

6.10. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (Condition of Approval 8.5).

6.11. Temporary Impact Restoration Schedule. Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (Condition of Approval 8.5).

7. Take Minimization Measures:

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

7.1. Temporary Covered Species Barrier. Prior to commencing any other Covered Activities during the wet season as described in Conditions of Approval 7.12, 7.13, and 7.14, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel, ramp or other method approved by CDFW. The Designated Biologist, (or other trained staff during periods described in Condition of Approval 6.4), shall inspect the barrier daily, and during and after storm events. The Permittee shall maintain and repair barrier immediately to ensure that it is functional and without defects. Any California tiger salamander found along the fence line shall be relocated in accordance with Condition of Approval 7.9. Any San Joaquin kit fox found shall be allowed to disperse on their own. Refuge opportunities, such as coverboards, shall be provided along or near the outer side of the exclusion fence. Location and design of the barrier and refuge opportunities shall be submitted to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities.

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- 7.2. Atypical Dens. Because the Covered Species are attracted to cave-like structures such as pipes and may enter stored pipes and become trapped, Permittee shall ensure that all construction pipes, culverts, or similar structures that are stored in the Project Area for one or more overnight periods are either securely capped prior to storage or thoroughly inspected by the Designated Biologist and/or the construction foreman/manager for these animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is discovered inside a pipe by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location as described in Condition of Approval 7.9. Any San Joaquin kit fox found shall be allowed to disperse on their own.
- 7.3. Erosion Control. All erosion and sediment control measures shall be installed prior to earth moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.
- 7.4. No Project 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 a drainage, stream or pond. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the project that may result in sediment runoff to the stream.
- 7.5. Trench Escape and Inspection. To prevent inadvertent entrapment of the Covered Species during construction, the Designated Biologist and/or construction foreman/manager shall ensure all excavated, steep-walled holes or trenches more than six inches deep are provided with one or more escape ramps constructed of earth fill or wooden planks and are inspected by the Designated Biologist prior to sunrise each morning. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals by the Designated Biologist and/or construction foreman/manager. If at any time a trapped California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location as described in Condition of Approval 7.9. Any San Joaquin kit fox found shall be allowed to disperse on their own.
- 7.6. Compost or Mulch. Compost and/or mulch shall contain no visible glass, metal, or plastic. Paper shall be no more than 0.5% by weight or volume. Municipal compost shall not be used.

California Tiger Salamander

- 7.7. Pre-activity Covered Species Surveys. Prior to initiating Covered Activities, the Designated Biologist shall perform pre-construction surveys within the boundaries of the Project Area plus a 50-foot buffer zone around the construction area. The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as excavation and soils deposition areas, overland access roads or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for California

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tiger salamander during initial site grading. Ground disturbing activities shall be done in a manner that allows Designated Biologists to safely survey the area for California tiger salamander. A Designated Biologist shall survey the open areas adjacent to ongoing ground disturbing as the footprint expands. Multiple biologists may be necessary to survey the area appropriately. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for California tiger salamander. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 7.1). If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.9).

- 7.8. Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.
- 7.9. Covered Species Relocation. The Designated Biologist shall relocate any California tiger salamander found within the upland Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The California tiger salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and approved by CDFW prior to the start of Covered Activities. The Designated Biologist shall document both locations by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW Representative within 24 hours of Covered Species Relocation.
- 7.10. Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) https://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp. If an injured Covered Species is found during the Project term, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:
- a. If the injury is minor or healing and the salamander is likely to survive as determined by the Designated Biologist, the salamander shall be released immediately in accordance with the Condition of Approval 7.9.
 - b. If it is determined that the California tiger salamander has major or serious injuries as a

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result of Project-related activities the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity, the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the USFWS. If CDFW and USFWS authorize release of the California tiger salamander, the release shall be within dispersal distance of the Project. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition 7.9.

7.11. Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use (such as excavation, grading, trenching, contouring) to the following time periods ("seasonal work windows") until the expiration of this ITP:

7.11.1. Upland Habitat: Between April 30 and October 31 (Dry Season);

7.11.2. Aquatic Habitat: Between June 15 and October 31. Covered Activities may begin prior to June 15 if the pond/wetland in which work will occur has been dry for a minimum of 30 days prior to initiating work.

7.12. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition of Approval 7.11 unless an expanded work window is approved by CDFW's Regional Representative. Permittee shall submit any requests for extensions at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If such work during the wet season results in areas previously considered temporarily-disturbed (to be restored the year of the impact), then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 6.10). If work is approved by CDFW outside of the seasonal work windows required in Condition 7.11, the following conditions shall apply:

7.12.1. Any work site located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing with coverboards. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.

7.12.2. All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

7.12.3. Temporary exclusion fencing shall be installed around any areas with the Project Area that could become ponded and provide breeding habitat during rain events. Coverboards shall be placed around the outside perimeter of the temporary fencing as described in Condition of Approval 7.1.

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7.13. Dry Season Work Restriction. During the Dry Season of April 30 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 40 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.

7.14. Wet Season Work Restriction. If CDFW has approved a seasonal work window extension per Condition 7.12, then, during the wet season of November 1 to April 29, Covered Activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the NWS. Construction may continue 24 hours after the rain ceases and there is less than a 40 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 40 percent or more chance of precipitation in the 24-hour forecast subject to Condition of Approval 7.13 and the following condition:

If work is approved when a greater than 40 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project site before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than 40 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain events.

7.15. Daily Work Window. The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. Except when necessary for construction or driver/ pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

7.16. Time of Day Work Restriction. Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise during the California tiger salamander migration/active season from November 1 to June 15. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.

7.17. Spoils Piles. Spoils piles shall be placed away from concentrated ground squirrel burrows or sensitive plants.

San Joaquin kit fox

7.18. San Joaquin Kit Fox Protections. The Permittee shall follow the USFWS's *Standardized*

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- 7.19. Den Surveys. No more than 15 days before Covered Activities begin the Designated Biologist and other biologists approved by CDFW and USFWS shall conduct transect surveys to detect potential San Joaquin kit fox dens in the Project Area. The Designated Biologist shall ensure that walking transects are conducted such that 100% visual coverage of the Project Area is achieved. The Designated Biologist shall adjust the transect width based upon vegetation height, topography, and other factors to facilitate the detection of dens and other sign. The Designated Biologist shall use the walking transects to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. Potential San Joaquin kit fox scat shall be collected and labeled by the Designated Biologist and the location shall be mapped. Potential dens will be considered to be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox.
- 7.20. Covered Species Injury. If a San Joaquin kit fox is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured San Joaquin kit fox. The Permittee shall notify CDFW of the injury to the San Joaquin kit fox immediately by telephone and e-mail followed by a written incident report as described in Condition 6.9. Notification shall include the name of the facility where the animal was taken.

8. Habitat Management Land Acquisition and Restoration:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase 1.6 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 1.6 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 0.77 acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.6 below.

To mitigate potential impacts on Covered Species and other species, the Permittee is placing a conservation easement on approximately 210.8 acres of the Doolan Canyon property,

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hereinafter referred to as the Doolan Canyon Conservation Easement (DCCE). The 210.8 acres includes 0.5 acre of existing ponds, 0.4 acre of wetland area to be created, 50 acres of habitat as compensation for impacts from the Isabel Avenue (SR 84)/I-580 Interchange Improvements Project, 150 acres of habitat as compensation for impacts from the El Charro Specific Plan, 8.3 acres of habitat as compensation for the Livermore Toyota Dealership Project, and 1.6 acres of habitat compensation for temporary impacts that will result from constructing the seasonal wetland within the DCCE.

The seasonal wetland would be constructed within the DCCE. The DCCE is located in Section 23, Township 2 South, Range 1 East of the Livermore U.S. Geological Survey 7.5-minute quadrangle. The DCCE is located in the southeast portion of the Doolan Canyon property (Assessor's Parcel Numbers 905-004-001, 205-060-003, and 006-230-003) at the end of Doolan Road in Alameda County (Figure 2). The temporary loss of 0.77 acres of suitable upland habitat for Covered Species is expected to be compensated through preservation of additional suitable habitat within the DCCE. An additional 1.6 acres of upland habitat will be incorporated in the DCCE when establishing the easement boundary.

- 8.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:
 - 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$30,000/acre for 1.6 acres: **\$48,000.00**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
 - 8.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at **\$6,000.00**;
 - 8.1.3. Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at **\$17,000.00**;
 - 8.1.4. Long-term management funding as described in Condition of Approval 8.4 below, estimated at approximately \$21,250.00/acre for 1.6 acres: **\$34,000.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
 - 8.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **\$3,000.00**.
 - 8.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,500.00/acre for 0.77 acre: **\$3,465.00**.
- 8.2. Covered Species Credits. Permittee shall purchase 1.6 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities,

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or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

OR:

8.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

- 8.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);
- 8.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for California tiger salamander; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species;
- 8.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

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- 8.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.
- 8.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 8.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management, pond repair. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.
- 8.4. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

- 8.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;
- 8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.
- 8.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
- 8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
- 8.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

8.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

8.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

8.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

8.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

8.6. Habitat Restoration. Permittee shall restore on-site the 0.77 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.77 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.

9. Performance Security

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

9.1. Security Amount. The Security shall be in the amount of **\$111,465.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.

9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

9.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.

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- 9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

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

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

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Compliance with Other Laws:

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

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2015-041-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Gregg Erickson, Regional Manager
California Department of Fish and Wildlife
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002

and a copy to:

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

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

Marcia Grefsrud
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
Marcia.grefsrud@wildlife.ca.gov

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ISABEL AVENUE (STATE ROUTE 84)/INTERSTATE 580 INTERCHANGE IMPROVEMENTS
(CALTRANS PROJECT NO. EA 04-171300) (CIP 19923866) OFF-SITE WETLAND MITIGATION PROJECT

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the I-580/Isabel Avenue Interchange Construction Project, (SCH No.: 2005062129) dated August 2007 that the California Department of Transportation adopted for Isabel Avenue (State Route 84)/Interstate 580 Interchange Improvements (Caltrans Project No. EA 04-171300) on August 17, 2007. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this ITP [CEQA Guidelines, § 15096, subd. (f)]. CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, I-580/Isabel Avenue Interchange Construction Project, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 1.6 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and

Incidental Take Permit
No. 2081-2015-041-03
CITY OF LIVERMORE

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funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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

Attachments:

FIGURE 1	Map of Project Area
FIGURE 2	Map of Project
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

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ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9-11-18.


Gregg Erickson, Regional Manager
BAY DELTA REGION

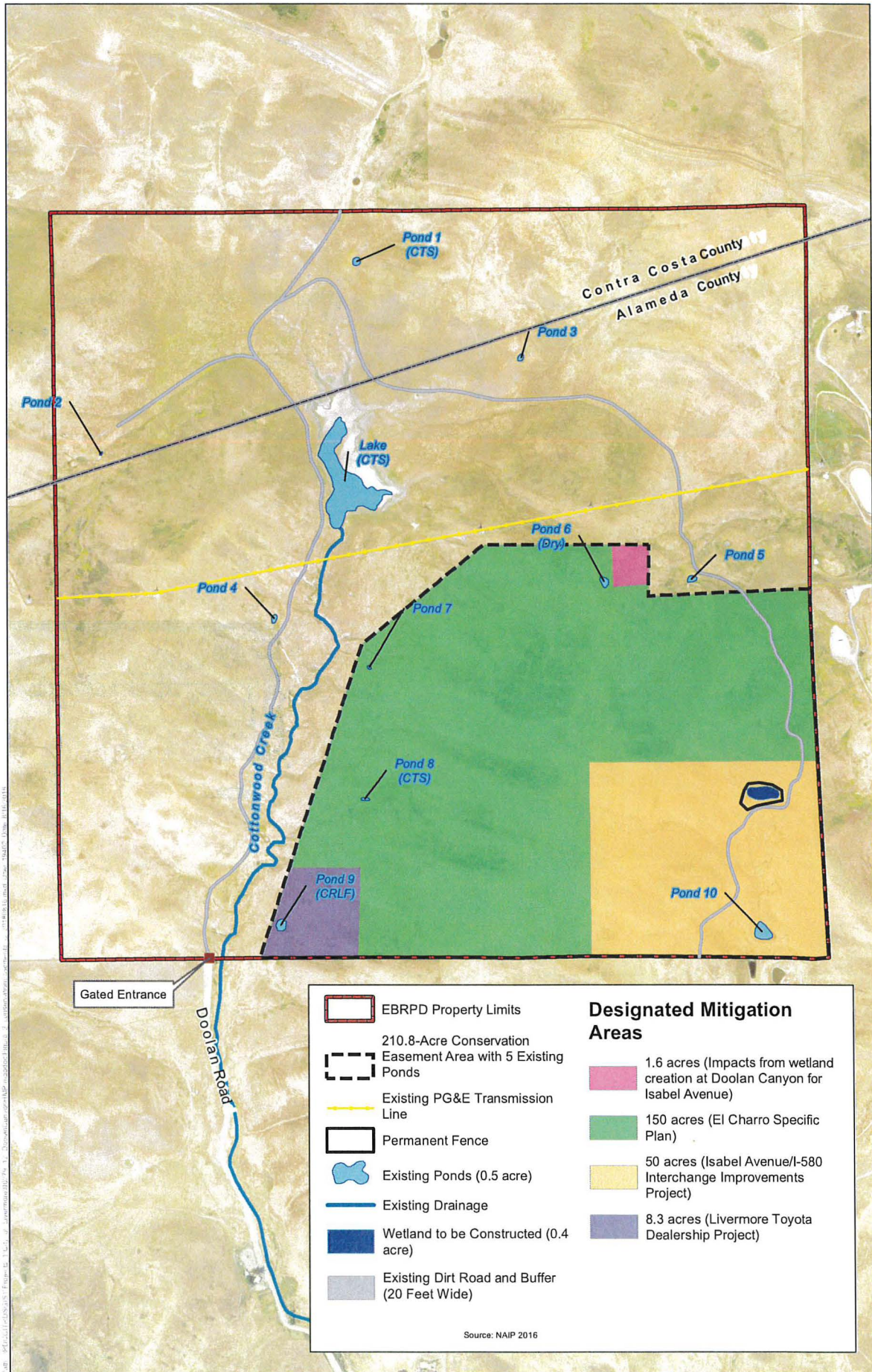
ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions

By:  Date: 9/18/18
Printed Name: Bob Vinn Title: Acting City Engineer

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Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) CALIFORNIA ENDANGERED SPECIES ACT

INCIDENTAL TAKE PERMIT NO. 2081-2015-041-03

PERMITTEE: City of Livermore

PROJECT: Isabel Avenue (State Route 84)/Interstate 580 Interchange Improvements (Caltrans Project No. EA 04-171300) (CIP 19923866) Off-site Wetland Mitigation Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the California Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittee has the primary responsibility for monitoring compliance with all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

CDFW may, at its sole discretion, verify compliance with any mitigation measure or independently assess the effectiveness of any mitigation measure.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Source, Implementation Schedule, Responsible Party, and Status/Date/Initials. The Mitigation Measure column summarizes the mitigation requirements of the ITP. The Source column identifies the ITP condition that sets forth the mitigation measure. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure. The Status/Date/Initials column shall be completed by the Permittee during preparation of each Status Report and the Final Mitigation Report, and must identify the implementation status of each mitigation measure, the date that status was determined, and the initials of the person determining the status.

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the biological monitor(s) (collectively, "Designated Biologist") at least 30 days before starting Covered Activities. Permittee shall ensure that all Designated Biologists are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be removed and disposed of daily.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 5.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Prior to commencing any other Covered Activities during the wet season as described in Conditions of Approval 7.12, 7.13, and 7.14, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel, ramp or other method approved by CDFW. The Designated Biologist, (or other trained staff during periods described in Condition of Approval 6.4), shall inspect the barrier daily, and during and after storm events. The Permittee shall maintain and repair barrier immediately to ensure that it is functional and without defects. Any California tiger salamander found along the fence line shall be relocated in accordance with Condition of Approval 7.9. Any San Joaquin kit fox found shall be allowed to disperse on their own. Refuge opportunities, such as coverboards, shall be provided along or near the outer side of the exclusion fence. Location and design of the barrier and refuge opportunities shall be submitted to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
9	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	All erosion and sediment control measures shall be installed prior to earth moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
11	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 a drainage, stream or pond. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the project that may result in sediment runoff to the stream.	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	Prior to initiating Covered Activities, the Designated Biologist shall perform pre-construction surveys within the boundaries of the Project Area plus a 50-foot buffer zone around the construction area. The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as excavation and soils deposition areas, overland access roads or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for California tiger salamander during initial site grading. Ground disturbing activities shall be done in a manner that allows Designated Biologists to safely survey the area for California tiger salamander. A Designated Biologist shall survey the open areas adjacent to ongoing ground disturbing as the footprint expands. Multiple biologists may be necessary to survey the area appropriately. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for California tiger salamander. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 7.1). If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.9).	ITP Condition # 7.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	<p>CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall either purchase 1.6 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 1.6 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 0.77 acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.6 below.</p> <p>To mitigate potential impacts on Covered Species and other species, the Permittee is placing a conservation easement on approximately 210.8 acres of the Doolan Canyon property, hereinafter referred to as the Doolan Canyon Conservation Easement (DCCE). The 210.8 acres includes 0.5 acre of existing ponds, 0.4 acre of wetland area to be created, 50 acres of habitat as compensation for impacts from the Isabel Avenue (SR 84)/I-580 Interchange Improvements Project, 150 acres of habitat as compensation for impacts from the El Charro Specific Plan, 8.3 acres of habitat as compensation for the Livermore Toyota Dealership Project, and 1.6 acres of habitat compensation for temporary impacts that will result from constructing the seasonal wetland within the DCCE.</p> <p>The seasonal wetland would be constructed within the DCCE. The DCCE is located in Section 23, Township 2 South, Range 1 East of the Livermore U.S. Geological Survey 7.5-minute quadrangle. The DCCE is located in the southeast portion of the Doolan Canyon property (Assessor's Parcel Numbers 905-004-001, 205-060-003, and 006-230-003) at the end of Doolan Road in Alameda County (Figure 2). The temporary loss of 0.77 acres of suitable upland habitat for Covered Species is expected to be compensated through preservation of additional suitable habitat within the DCCE. An additional 1.6 acres of upland habitat will be incorporated in the DCCE when establishing the easement boundary.</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <p>Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$30,000/acre for 1.6 acres: \$48,000.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</p> <p>Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at \$6,000.00;</p> <p>Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at \$17,000.00;</p> <p>Long-term management funding as described in Condition of Approval 8.4 below, estimated at approximately \$21,250.00/acre for 1.6 acres: \$34,000.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at \$3,000.00.</p> <p>Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,500.00/acre for 0.77 acre: \$3,465.00.</p>	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
15	<p>Permittee shall purchase 1.6 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. OR:</p>	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
16	<p>To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p>8.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);</p>	ITP Condition # 8.3 and 8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
17	Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for California tiger salamander; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species;	ITP Condition # 8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition # 8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
19	Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition # 8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see http://www.dfg.ca.gov/habcon/conplan/mitbank/); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition # 8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management, pond repair. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	<p>The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;	ITP Condition # 8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
24	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.	ITP Condition # 8.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Condition # 8.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	<p>8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>8.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>8.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>8.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p>	ITP Condition # 8.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Condition # 8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	Permittee shall restore on-site the 0.77 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.77 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.	ITP Condition # 8.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$111,465.00. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> <p>Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <p>Written documentation of the acquisition of the HM lands; Copies of all executed and recorded conservation easements; Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and Timely submission of all required reports.</p> <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
DURING CONSTRUCTION					
31	To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 5.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
32	The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.	ITP Condition # 5.5	Entire Project	Permittee	
33	The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP.	ITP Condition # 6.3	Entire Project	Permittee	
34	During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 7.1.	ITP Condition # 6.4	Entire Project	Permittee	
35	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 6.5	Entire Project	Permittee	
36	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 6.7	Entire Project	Permittee	
38	The Designated Biologist shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 6.2	Entire Project	Permittee	
39	Because the Covered Species are attracted to cave-like structures such as pipes and may enter stored pipes and become trapped, Permittee shall ensure that all construction pipes, culverts, or similar structures that are stored in the Project Area for one or more overnight periods are either securely capped prior to storage or thoroughly inspected by the Designated Biologist and/or the construction foreman/manager for these animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is discovered inside a pipe by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location as described in Condition of Approval 7.9. Any San Joaquin kit fox found shall be allowed to disperse on their own.	ITP Condition # 7.2	Entire Project	Permittee	
40	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 5.8	Entire Project	Permittee	
41	Compost and/or mulch shall contain no visible glass, metal, or plastic. Paper shall be no more than 0.5% by weight or volume. Municipal compost shall not be used.	ITP Condition # 7.6	Entire Project	Permittee	
42	To prevent inadvertent entrapment of the Covered Species during construction, the Designated Biologist and/or construction foreman/manager shall ensure all excavated, steep-walled holes or trenches more than six inches deep are provided with one or more escape ramps constructed of earth fill or wooden planks and are inspected by the Designated Biologist prior to sunrise each morning. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals by the Designated Biologist and/or construction foreman/manager. If at any time a trapped California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location as described in Condition of Approval 7.9. Any San Joaquin kit fox found shall be allowed to disperse on their own.	ITP Condition # 7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds on overland access routes and dirt roads do not exceed 10 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.11	Entire Project	Permittee	
44	Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.	ITP Condition # 5.12	Entire Project	Permittee	
45	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.13	Entire Project	Permittee	
46	Permittee shall provide CDFW staff with reasonable access to the Project sites, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 5.14	Entire Project	Permittee	
47	The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.	ITP Condition # 7.8	Entire Project	Permittee	
48	The Designated Biologist shall relocate any California tiger salamander found within the upland Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The California tiger salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and approved by CDFW prior to the start of Covered Activities. The Designated Biologist shall document both locations by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW Representative within 24 hours of Covered Species Relocation.	ITP Condition # 7.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	<p>California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) https://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp. If an injured Covered Species is found during the Project term, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:</p> <p>a. If the injury is minor or healing and the salamander is likely to survive as determined by the Designated Biologist, the salamander shall be released immediately in accordance with the Condition of Approval 7.9.</p> <p>b. If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the USFWS. If CDFW and USFWS authorize release of the California tiger salamander, the release shall be within dispersal distance of the Project. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition 7.9.</p>	ITP Condition # 7.10	Entire Project	Permittee	
50	<p>Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall immediately provide initial notification to CDFW by calling the CDFW Representative at (707) 644-2812. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within 24 hours of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.</p> <p>6.9.1 California tiger salamander. If the Covered Species is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention: Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.</p>	ITP Condition # 6.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
51	<p>Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use (such as excavation, grading, trenching, contouring) to the following time periods ("seasonal work windows") until the expiration of this ITP:</p> <p>7.11.1. Upland Habitat: Between April 30 and October 31 (Dry Season);</p> <p>7.11.2. Aquatic Habitat: Between June 15 and October 31. Covered Activities may begin prior to June 15 if the pond/wetland in which work will occur has been dry for a minimum of 30 days prior to initiating work.</p>	ITP Condition # 7.11	Entire Project	Permittee	
52	<p>Permittee shall adhere to the seasonal work windows required in Condition of Approval 7.11 unless an expanded work window is approved by CDFW's Regional Representative. Permittee shall submit any requests for extensions at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If such work during the wet season results in areas previously considered temporarily-disturbed (to be restored the year of the impact), then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 6.10). If work is approved by CDFW outside of the seasonal work windows required in Condition 7.11, the following conditions shall apply:</p> <p>7.12.1. Any work site located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing with coverboards. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.</p> <p>7.12.2. All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.</p> <p>7.12.3. Temporary exclusion fencing shall be installed around any areas with the Project Area that could become ponded and provide breeding habitat during rain events. Coverboards shall be placed around the outside perimeter of the temporary fencing as described in Condition of Approval 7.1.</p>	ITP Condition # 7.12	Entire Project	Permittee	
53	<p>During the Dry Season of April 30 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 40 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.</p>	ITP Condition # 7.13	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	<p>If CDFW has approved a seasonal work window extension per Condition 7.12, then, during the wet season of November 1 to April 29, Covered Activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the NWS. Construction may continue 24 hours after the rain ceases and there is less than a 40 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 40 percent or more chance of precipitation in the 24-hour forecast subject to Condition of Approval 7.13 and the following condition:</p> <p>If work is approved when a greater than 40 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project site before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than 40 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain events.</p>	ITP Condition # 7.14	Entire Project	Permittee	
55	The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. Except when necessary for construction or driver/pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.	ITP Condition # 7.15	Entire Project	Permittee	
56	Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise during the California tiger salamander migration/active season from November 1 to June 15. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.	ITP Condition # 7.16	Entire Project	Permittee	
57	Spoils piles shall be placed away from concentrated ground squirrel burrows or sensitive plants.	ITP Condition # 7.17	Entire Project	Permittee	
58	The Permittee shall follow the USFWS's Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance, dated June 1999.	ITP Condition # 7.18	Entire Project	Permittee	
59	No more than 15 days before Covered Activities begin the Designated Biologist and other biologists approved by CDFW and USFWS shall conduct transect surveys to detect potential San Joaquin kit fox dens in the Project Area. The Designated Biologist shall ensure that walking transects are conducted such that 100% visual coverage of the Project Area is achieved. The Designated Biologist shall adjust the transect width based upon vegetation height, topography, and other factors to facilitate the detection of dens and other sign. The Designated Biologist shall use the walking transects to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. Potential San Joaquin kit fox scat shall be collected and labeled by the Designated Biologist and the location shall be mapped. Potential dens will be considered to be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox.	ITP Condition # 7.19	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
60	If a San Joaquin kit fox is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured San Joaquin kit fox. The Permittee shall notify CDFW of the injury to the San Joaquin kit fox immediately by telephone and e-mail followed by a written incident report as described in Condition 6.9. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 7.20	Entire Project	Permittee	
61	To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (Condition of Approval 8.5).	ITP Condition # 6.10	Entire Project	Permittee	
62	Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (Condition of Approval 8.5).	ITP Condition # 6.11	Entire Project	Permittee	
POST-CONSTRUCTION					
63	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.15	Post-construction	Permittee	
64	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 6.8	Post-construction and after completion of mitigation	Permittee	
65	CDFW accepts the Final Mitigation Report as complete.	ITP Condition # 6.16	Post-construction	CDFW	

ATTACHMENT 2A
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite the Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the ☐ Conservation Easement OR ☐ Grant Deed

Documents in this package include:

☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed with legal description stamped by a licensed surveyor. Date executed: _____

☐ Proposed Lands for Acquisition Form (PLFAF)

☐ Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)

☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

☐ a plot or map of easements/encumbrances on the property

☐ Policy of Title Insurance (an existing title policy is not acceptable)

☐ County Assessor Parcel Map(s) for subject property

☐ Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

☐ Permit _____ Other: _____
(write in type of permit)

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)

☐ Biological Resources Report

☐ Draft Summary of Transactions ☐ hard copy ☐ electronic copy (both are required)



ATTACHMENT 2B

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel(s) of land be considered for approval by the California Department of Fish and Wildlife as suitable for purposes of habitat management lands to compensate the adverse environmental impacts of the Project:

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
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_____	_____	_____	_____	_____
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Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ____ By: _____ DATE: _____

Regional Manager's Signature

REJECTED ____

Region: _____

Explanation: _____

IRREVOCABLE STANDBY LETTER OF CREDIT
NO. [**Number issued by financial institution**]

Issue Date: [**date**]

Beneficiary:

California Department of Fish and Wildlife
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Mitigation Account Coordinator

Amount: U.S. \$[**dollar number**] [(**dollar amount**)]

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

Dear Sirs:

1. At the request and on the instruction of our customer, [**name of applicant**] ("Applicant"), we, [**Name of financial institution**] ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$[**dollar number**] [(**dollar amount**)] ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of the CDFW pursuant to the terms of the incidental take permit for the [**name of project**] issued by the CDFW to the Applicant on [**date**] (No. [**number**]) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements, as set forth in Conditions [**numbers**] in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by the CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. The CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A, which is attached hereto, at our office located at [**name and address of financial institution**].
6. The Certificate shall be completed and signed by an "Authorized Representative" of the CDFW as defined in paragraph 12 below. Presentation by the CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to the CDFW, or to the account of the CDFW, in immediately available funds, as the CDFW shall specify.

8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, the CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to the CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the California Department of Fish and Wildlife, the General Counsel of the California Department of Fish and Wildlife, or a Regional Manager of the California Department of Fish and Wildlife.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify the CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at **[name and address of financial institution]**, specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for the CDFW: California Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account Coordinator; and (ii) for the Applicant: **[name and address of applicant]**.
15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on **[expiration date]**, or any extended expiration date.

18. We hereby agree with the CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____
Name: _____
Title: _____

ATTACHMENT A

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [*Number issued by financial institution*]
CERTIFICATE FOR DRAWING

To:

[Name and address of financial institution]

Re: Incidental Take Permit No. [*permit number*]

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "In the opinion of the CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "As set forth in paragraph 13, the Issuer has informed the CDFW that the Credit will not be extended and the Applicant has not provided the CDFW with an equivalent security approved by the CDFW to replace the Credit."]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. The CDFW is therefore making a drawing under the Credit in amount of U.S. \$_____.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, the CDFW has executed and delivered this Certificate as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[Insert one of the following: "DIRECTOR" or "GENERAL COUNSEL" or "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]"

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. **[Number issued by financial institution]**
CERTIFICATE FOR CANCELLATION

To:

[Name of financial institution and address]

Re: Incidental Take Permit No. **[permit number]**

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The natural expiration of this Credit has occurred."]
2. The CDFW therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[Insert one of the following: "DIRECTOR" or "GENERAL COUNSEL" or "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]"

State of California - Department of Fish and Wildlife
MITIGATION PAYMENT TRANSMITTAL FORM
DFW 1057 (NEW 07/28/17)

Project Applicant Instructions: Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and ASB Mitigation Tracking Number (if available) on the attached payment type.

1. DATE: _____ TO: _____ Regional Manager _____ Region Office Address	2. FROM: _____ Name _____ Mailing Address _____ City, State, Zip _____ Telephone Number/FAX Number
3. RE: _____ Project Name as appears on permit/agreement	

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type) <input type="checkbox"/> 2081 Permit <input type="checkbox"/> Conservation Bank <input type="checkbox"/> 2835 NCCP <input type="checkbox"/> 1802 Agreement <input type="checkbox"/> 1600 Agreement <input type="checkbox"/> Other _____ _____ Project Tracking Number

5. PAYMENT TYPE (One check per form only): The following funds are being remitted in connection with the above referenced project:

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

a. Endowment: for Long-Term Management Subtotal \$ _____

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

ACCOUNTING OFFICE USE ONLY	
Description	FI\$Cal Coding
Speedchart (Project, Program, Reference, Fund)	
Reporting Structure	
Category	
Date Established: _____ By: _____	