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HABITAT CONSERVATION
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California Department of Fish and Wildlife
Central Region
1234 East Shaw Avenue
Fresno, California 93710

California Endangered Species Act
Incidental Take Permit No. 2081-2018-029-04
(Reissue of No. 2081-2011-064-04)

SAN JUAN ROAD INTERCHANGE

The California Department of Fish and Wildlife (CDFW) issued to the California Department of Transportation (Permittee) incidental take permit number 2081-2011-064-04 and later amended it four times (original ITP). After the fourth amendment, Permittee completed the project described below. The original ITP expired in December 2016; however, Permittee has not fulfilled its mitigation obligation from the original ITP. The Permittee and CDFW agreed that Permittee may fulfill its mitigation obligation through the purchase of conservation bank credits, an option that is not in the original ITP. As a result, CDFW is reissuing the original ITP as this ITP number 2081-2018-029-04. This ITP does not authorize an increase in the take or impacts that CDFW contemplated when issuing the original ITP, or otherwise change the original ITP's take authorization. Instead, this ITP provides Permittee with another option for fulfilling its mitigation obligation under the original ITP through the option to purchase conservation bank credits. Additionally, this ITP increases Permittee's mitigation obligation as compared to the original ITP to account for the temporal losses associated with the delayed mitigation. Deletions to the original ITP are shown in double strikeout, while additions are shown in bold italics. Revisions to the original ITP related to CDFW's name change from Fish and Game to Fish and Wildlife are not reflected in this ITP. In summary, this ITP reflects the following revisions to the original ITP: (1) an additional option to meet the mitigation obligation as required under the original ITP through the purchase of conservation bank credits; (2) an extension of the expiration date and time to meet the compensatory mitigation obligation; (3) the requirement for supplementary compensatory mitigation to offset the temporal impacts caused by the delay in meeting the mitigation obligation under the original ITP; (4) corrected cross reference; (5) updated cost estimates; and (6) updated contact information.

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

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").

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 also Cal. Code Regs., tit. 14, § 783.4.)

Permittee: California Department of Transportation (Caltrans)
Principal Officer: ~~Chuck Cosena~~ **Karen Holmes, Senior Environmental Planner**
~~(805) 549-3622~~
Contact Person: Jim Walth, Associate Biologist, (805) 542-4657
Mailing Address: California Department of Transportation, District 5
Central Coast Environmental Management Branch
50 Higuera Street
San Luis Obispo, California 93401

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, 2016~~ **June 15, 2019**.

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 7.8 of this ITP.

Project Location:

The San Juan Road Interchange (Project) is located on U.S. Route 101 near San Juan Road from Post Mile (PM) 100.0 in Monterey County to PM 1.6 in San Benito County (see Figure 1). The Project site is bounded by Dunbarton Road to the southwest and Cole Road to the east and goes approximately 2,000 feet up San Juan Road to the northwest and approximately 1,000 feet up Cole Road to the north.

Project Description:

The Project involves constructing an overcrossing at a right angle with Route 101 northeast of the Monterey/San Benito county line. The southbound on-ramp and southbound off-ramp would be a compact diamond interchange configuration; the northbound off-ramp and northbound on-ramp would be a one-quadrant cloverleaf interchange configuration. The purpose of the proposed Project is to eliminate the left turn from San Juan Road to northbound Route 101 and improve the safety features of the transportation facility. The

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

contractor is scheduled to begin in spring of 2013 and continue until closeout in 2016. Caltrans will need to fill two small vernal pools (see Figure 2) prior to October 31, 2012 in order for the contractor to work in that area prior to June 15, 2013.

The proposed Project includes the development of 14.72 acres of undeveloped land. See Caltrans Design Plans (Figure 3) for location details. The habitat on-site includes coastal oak woodlands and non-native grassland. Project activities include grubbing and grading of the entire Project site, equipment storage, the creation of staging and laydown areas, excavation or fill to change ground elevation in some areas, ground compaction, construction of retaining walls, construction of the overpass, placing and compacting a sub grade base layer, road paving, relocation of utilities, trench digging, tree removal, stream realignment, culvert installation or extension and other activities to accomplish the work described above.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. <i>California tiger salamander</i> (<i>Ambystoma californiense</i>) (CTS)	Threatened ³

This species and only this species is 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. Take as defined by state law of individuals of the Covered Species could occur as a result of Project construction activities, including grubbing, grading, excavation, fill, road construction, relocation of utilities, trench digging, tree removal, and stream realignment (Covered Activities). Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities involving vehicles or construction equipment, by vegetation clearing and trenching, through collapsing of burrows, or by entrapment in trenches or within construction materials. Because the entire Project footprint is within the Covered Species’ migratory range of 1.24 miles from either the known California tiger salamander breeding pond northeast of the intersection of Cole Road and Route 101 or potential breeding ponds (Figure 4), take as defined by state law could occur throughout the Project footprint where there are impacts, either permanent or temporary, to habitat (see Figure 5) (collectively, the Project Area).

Incidental take of the Covered Species may also occur from the Covered Activities in the form of pursuit, catch, and capture of the Covered Species if it is found within the Project Area and needs to be relocated. The Project will cause the permanent loss of 14.66 acres of upland habitat and 0.06 acres of aquatic habitat and temporary loss of 30.33 acres of upland habitat

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

for the Covered Species. There will be no temporary impacts to aquatic habitat; the permanent impact to the 0.06 acres of aquatic habitat is due to two vernal pools in the impact area that Caltrans will fill. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts to the Covered Species include: stress resulting from noise and vibrations, stress resulting from capture and relocation, increased vulnerability to predation and long-term effects due to increased pollution, displacement from preferred habitat, and increased competition for food and space.

Covered Species Incidental Take Authorization:

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 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 state, federal, 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 Initial Study/ Mitigated Negative Declaration and Environmental Assessment/Finding of No Significant Impact (SCH No: 2006021071) adopted by the lead agency, Caltrans, for the Project pursuant to the California Environmental Quality Act (CEQA) on December 15, 2009.
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration (LSA) agreement (Notification No. 1600-2011-0169-R4) for the Project pursuant to Fish and Game Code section 1602 et seq.)

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4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion for the San Juan Interchange Project, Monterey and San Benito Counties, California (8-8-09-F-36) for the Project pursuant to the Federal Endangered Species Act (ESA), unless those terms and conditions are less protective of the Covered Species or conflict with the conditions of this ITP.

5. **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.

6. **General Provisions:**

6.1. 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.

6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Designated Biologist before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist must have a valid California Scientific Collecting Permit (SCP) that includes 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. The Designated Biologist(s) may be assisted by approved biologists that do not have an SCP; these biologists shall be identified as Designated Monitors.

6.3. 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 is not in compliance with this ITP, and/or to

order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

- 6.4. 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 for any new workers before their performing 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. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook 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 notebook is available for review at the Project site upon request by CDFW.
- 6.6. 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.
- 6.7. 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.
- 6.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.

- 6.9. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.
- 6.10. Delineation of Property Area. Before starting Covered Activities 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.
- 6.11. 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.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, 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. 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 if additional take of Covered Species may result from Project modification.
- 6.13. 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 6.12 of this ITP.
- 6.14. Hazardous Waste. Permittee shall immediately stop and following 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.
- 6.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise

fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

- 6.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and 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.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. 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.
- 7.2. Notification of Non-compliance. The Designated Representative 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 Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. California Tiger Salamander Relocation Plan. The Designated Biologist shall prepare a California tiger salamander relocation plan and submit it to CDFW for approval at least 30 days prior to the beginning of Covered Activities occurring within 1.3 miles of known and/or potential California tiger salamander breeding pools. Covered Activities within these areas may not proceed until CDFW approves the relocation plan in writing.
- 7.4. 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, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed.

- 7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.4 into a Monthly Compliance Report and submit it to CDFW along with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is ~~Laura Peterson-Diaz~~ **Steven Hulbert** (~~lpdiaz@CDFW.ca.gov~~ **steven.hulbert@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.
- 7.6. 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 7.5 (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, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.7. CNDDDB Observations. 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.
- 7.8. 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.

- 7.9. 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 provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. 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 two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. 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:

- 8.1. A Designated Biologist(s) shall be on-site daily during all initial surface-disturbing activities to minimize potential impacts to the Covered Species; to check for compliance with all required measures; to check all exclusion zones; and to ensure that signs, stakes, and fencing are intact, and that human activities are restricted to outside of these protective zones. The Designated Biologist(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist(s) shall prepare written records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP.
- 8.2. If any Covered Species are found in the Project Area during construction, all work that could potentially harm the Covered Species shall stop immediately until the Designated Biologist(s) can relocate the Covered Species to an active rodent burrow system. Only approved Designated Biologist(s) with the state SCP and the appropriate federal permit for amphibians are authorized to

capture and handle Covered Species. The Designated Biologist(s) shall identify relocation areas prior to the start of construction in accordance with the approved Relocation Plan.

- 8.3. All Covered Species sightings confirmed by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology, the name of the party that actually identified the animal, circumstances of the incident, the general condition and health of each individual, any diagnostic markings, sex, age (juvenile or adult), and actions undertaken and habitat description. Permittee shall submit this information to the CNDDDB. This information should also be included in the Monthly Compliance Report.
- 8.4. Any small mammal burrows present within the portion of the Project area 400 meters from the outermost periphery of Pond 21 (as shown in Figure 4), shall be fully excavated by hand by the Designated Biologist(s). The Permittee will continue excavating burrows beyond 400 meters until 200 burrows have been hand excavated. The Permittee shall relocate any live Covered Species as per the relocation plan prepared pursuant to Condition of Approval 7.3. If one Covered Species is encountered during the excavation of the first 200 burrows, then an additional 100 burrows closest to the outermost periphery of the known breeding Pond, Pond 21, will be hand excavated.
- 8.5. Fill or other ground-disturbing activities within or immediately adjacent to the Covered Species' potential breeding habitat within the permanent impact area, consisting of 0.057 acres located on the east side of Balentree Lane just south of the tributary to the Elkhorn Slough, shall be confined to the dry season from June 15 to October 31.
- 8.6. Covered activities within Covered Species potential upland habitat shall be restricted to periods of low rainfall (less than 1/2 inch precipitation per 24-hour period). Permittee shall monitor the National Weather Service (NWS) 72-hour forecast for the Project area.
 - 8.6.1. If a 50 percent or greater chance of rainfall is predicted within 24 hours of Project activity, a Designated Biologist shall survey the Project site before construction begins EACH day rain is forecast. If Permittee uses a Designated Monitor to conduct surveys, a Designated Biologist must still be available to capture and relocate any Covered Species discovered during the surveys.

- 8.6.2. If precipitation begins, then a Designated Biologist shall be at the Project site for the duration of the rain event in order for work to continue. If a Designated Monitor is used, then a Designated Biologist must still be on call and available to relocate any Covered Species discovered.
- 8.6.3. If rain exceeds 1/2 inch during a 24-hour period, all covered work activities shall cease until it is no longer raining and no further rain is forecast.
- 8.7. All Covered Activities within Covered Species potential upland habitat shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise during the migration/active season from November 1 to June 14. Permittee shall use sunrise and sunset times established by the United States Naval Observatory Astronomical Applications Department for the geographic area where the Project is located. If night work cannot be avoided during this time period, a Designated Biologist shall survey the Project site before construction begins each night. If Permittee uses a Designated Monitor to conduct surveys, a Designated Biologist must still be available to capture and relocate any Covered Species discovered during the surveys.
- 8.8. Permittee shall prohibit all night work within potential Covered Species upland habitat when a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, until no further rain is forecast.
- 8.9. Permittee shall place soil stockpiles where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "waters of the state," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 8.10. Within 1.24 miles of known or potential Covered Species breeding sites (including but not limited to the sites shown on Figure 1), Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent Covered Species from exiting the roadway. If curbs are necessary for safety and/or surface runoff, the Permittee shall design them to allow Covered Species to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow Covered Species to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow Covered Species passage.

- 8.11. To ensure that the Designated Biologist(s) do not convey disease between work sites, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.12. Designated Biologists shall inspect all open trenches, auger holes, and other excavations that may trap Covered Species prior to any work in or around them and before they are backfilled. Designated Biologists shall safely remove and relocate any Covered Species they find in accordance with this ITP.
- 8.13. Covered Species Injury. If a Covered Species 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 Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. Notification shall include the name of the facility where the animal was taken.

9. 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. A mitigation ratio of 2:1 was used for permanent impacts and 0.75:1 for temporary impacts. Compensatory mitigation for permanent impacts is $14.66 \times 2 = 29.32$ acres for upland habitat plus $0.06 \times 2 = 0.12$ acres for aquatic habitat. Compensatory mitigation for temporary impacts is $30.33 \times 0.75 = 22.75$. To compensate for the potential increased take of Covered Species that may be impacted in unexcavated burrows, Permittee will provide an additional $4 + 7$ acres of compensatory mitigation bringing the total compensatory mitigation required to $29.32 + 0.12 + 22.75 + 4 + 7 = 63.19$

To meet this requirement, the Permittee shall provide for the permanent protection and management of 63.19 acres of Habitat Management (HM) lands pursuant to Condition of Approval ~~9-39.2~~ **9-39.2** below and the calculation and deposit of the management funds

pursuant to Condition of Approval ~~9.49.3~~ below. Permanent protection and funding for perpetual management of compensatory habitat must be complete ~~before starting Covered Activities, or by December 31, 2015~~ **within 30 days of issuance of this ITP, or before this ITP's expiration date** if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 29.49 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.5 below.

The Permittee has been given approval to pursue recordation of a Conservation Easement over a portion of the Packard property located adjacent to the north edge of the Moss Landing Wildlife Area in Township 13 south, Range 2 east, Sections 5 and 8, in Monterey County. The property has both upland and breeding habitat. The Permittee wishes to establish the Conservation Easement for 68.0 acres. This would leave a balance of 4.81 acres, not all of which is suitable Covered Species habitat. Some of the remaining 4.81 acres may be used as mitigation for other Caltrans projects pending DFW approval for future project(s) to mitigate at this site.

In addition to the compensatory mitigation of 63.19 acres mentioned above, additional compensatory mitigation is required due to the temporal impacts to the Covered Species associated with Permittee's delay in fulfilling its mitigation obligation. CDFW and Permittee agreed that Permittee will protect and fund the perpetual management of ten percent more aquatic breeding and upland habitat for the benefit of the Covered Species. As a result, Permittee's compensatory mitigation obligation is 69.509 acres.

9.1. 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:

- 9.1.1. Conservation Easement acquisition costs for HM lands identified in Condition of Approval 9.2 below, estimated at \$16,000.00/acre for ~~63.19~~ **69.509** acres: ~~\$1,011,040.00~~ **\$1,112,144.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at **\$80,976.00**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at **\$40,488.00**;

- 9.1.4. Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$9,600.00/acre for ~~63.19~~**69.509** acres: ~~\$606,624.00~~ **\$667,286.00**. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management.
- 9.1.5. 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 9.4, estimated at **\$3,000.00**.
- 9.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.5, calculated at \$37,000.00/acre for 29.49 acres: **\$1,091,130.00**.
- 9.2. Habitat Acquisition and Protection. To provide for the acquisition and protection of the HM lands, the Permittee shall:
- 9.2.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a special district, non-profit organization, for-profit entity, person, or other entity to hold title to the property provided that the district, organization, entity, or person meets the requirements of Government Code section 65965, et seq., 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 named third-party beneficiary. The Permittee shall obtain CDFW approval of any conservation easement before its recordation;

OR

Covered Species Credits. Permittee shall purchase at least 69.509 acres of Covered Species credits from a CDFW-approved conservation bank with a service area which encompasses the Project Area. The 69.509 acres of Covered Species credits shall include at least 0.132 acres of breeding habitat credits and at least

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69.377 acres of upland habitat credits. The purchase of conservation bank credits must be completed, and Permittee shall provide CDFW proof-of-purchase prior to this ITP expiring.

- 9.2.2. HM Lands Approval. CDFW has already granted approval for Permittee to initiate negotiations with the Packards for recordation of a conservation easement on a portion of their property. If this falls through and other options must be pursued, then Permittee shall obtain CDFW 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 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.2.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). 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;
- 9.2.4. Land Manager. Designate an interim and long-term land manager approved by CDFW. The land manager may be the conservation easement grantee, landowner, or other party. Documents related to land management shall identify the land manager. 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 long-term land manager unless otherwise specified.
- 9.2.5. 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 <http://www.CDFW.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;

9.2.6. 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. 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 for annual payment to the land manager.

9.3. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.2, 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 final management plan and conservation easement 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 9.2.5. 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.

9.3.1. Identify an Endowment Fund Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or an entity qualified pursuant to Government Code section 65965-65968, et seq., as amended, and approved in writing by CDFW in its sole discretion. Permittee shall submit to CDFW a written proposal for an Endowment Manager along with a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). CDFW shall notify Permittee in writing of its approval or disapproval of the proposed Endowment Manager. If CDFW does not approve the proposed Endowment Manager, it shall provide Permittee with a written explanation of the reasons for its disapproval.

9.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW approval of the HM lands, long-term management plan, and Endowment Fund Manager, Permittee shall prepare a Property Analysis Record (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 Escrow Account or the Endowment Fund Manager.

9.3.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Fund Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees. If the funds for the Endowment Fund will be placed in an Endowment Escrow Account, the capitalization rate and PAR shall be calculated to take account of the reasonably anticipated rate of return for the funds while held in escrow.

9.3.2.2. 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 Fund:

9.3.2.2.1. 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.

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

9.3.2.2.3. 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 Fund Manager and CDFW.

9.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Escrow Account or the Endowment Fund Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Fund Manager may pool the Endowment Fund 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 Fund.

9.4. 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.

9.5. Habitat Restoration. Permittee shall restore on-site the 29.49 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 29.49 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. The Plan shall also indicate the best time of year for seeding to occur and the dates when regular watering would be required to ensure adequate growth. The Plan shall be implemented

the first season appropriate. Described below are the measures and success criteria that must be included in the Vegetation Restoration Plan.

- 9.5.1. Identifying species damaged or removed during Project activities. Native trees and shrubs (e.g., oak, willow, cottonwood, sycamore, etc.) between four to 25-inches diameter at breast height (DBH) shall be replaced in-kind at a ratio of 3:1, and trees greater than 25-inches DBH shall be replaced at a ratio of 10:1.
- 9.5.2. Describing when, where, and how replacement shrubs and trees will be planted. "When" shall be the first suitable season after construction is complete. "Where" shall include a planting layout design with sufficient space appropriate for each species. "How" shall include measures to be implemented (i.e., irrigation methods, weed management, maintenance and replanting if necessary) to ensure a minimum of 70 percent survivorship for three (3) years, after the last planting, (i.e., if up to 30 percent of any of the species are at risk of not surviving and repeated plantings are necessary, then monitoring, maintenance, and annual reporting shall continue for the subsequent three (3) years).
- 9.5.3. For seeding and mulching exposed slopes, the seed blend shall include a minimum of three (3) locally native grass species. Locally native wildflower and/or shrub seeds may also be included in the mix. One or two sterile non-native perennial grass species may be added to the seed mix provided that amount does not exceed 25 percent of the total seed mix by count. Seeding shall be completed as soon as possible, but no later than November 15 of the year construction ends.
- 9.5.4. At the discretion of the Department, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.

10. 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 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 10.1. Security Amount. The Security shall be in the amount of ~~\$2,833,254.00~~ **\$2,995,024.00**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above;

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- 10.2. Security Form. The Security shall be in the form ~~of a funding assurance letter signed by the District Deputy Directors of Project Management and Environmental Planning and Engineering~~ **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, or another mechanism approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. 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;~~
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. 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.
- 10.6. 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.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by:
- Timely submission of all required reports;
 - An on-site inspection by CDFW; and
 - Written approval from CDFW.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands, record any required conservation easements, **or purchase Covered Species credits** no later than ~~December 31, 2015~~ **this ITP's expiration date**. 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, monitoring, or habitat acquisition 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 other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

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 laws.

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
~~1416 Ninth Street, Suite 1260~~ **Post Office Box 944209**
Sacramento, California ~~95814~~ **944244-2090**

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following addresses, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (~~2081-2018-029-04~~~~2081-2011-064-04~~) in a cover letter and on any other associated documents.

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Original cover with attachment(s) to:

~~Jeffrey R. Single, Ph.D.~~ **Julie A. Vance**, Regional Manager
California Department of Fish and Wildlife
Region 4 - Central Region
1234 East Shaw Avenue
Fresno, California 93710
Phone: (559) 243-4005
Fax: (559) 243-4022

Copy of cover without attachment(s) to:

Office of the General Counsel
California Department of Fish and Wildlife
~~1416 Ninth Street, Suite 1260~~ **Post Office Box 944209**
Sacramento, California ~~95814~~ **94244-2090**

And:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
~~1416 Ninth Street, Suite 1260~~ **Post Office Box 944209**
Sacramento, California ~~95814~~ **94244-2090**

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

~~Laura Peterson-Diaz~~ **Steve Hulbert**
California Department of Fish and Wildlife
Region 4 - Central Region
1234 East Shaw Avenue
Fresno, California 93710
Phone: (559) 243-4017, extension ~~225~~ **289**
Fax: (559) 243-4020
~~lpdiaz@CDFW.ca.gov~~ **steven.hulbert@wildlife.ca.gov**

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 a Mitigated Negative Declaration and Finding of No Significant Impact, (SCH No. 2006021071) adopted by the California Department of Transportation for the Project on December 15, 2009. 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.

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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, as well as 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 document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b),(c); Cal. Code Regs., tit. 14, §§ 783.4, subs. (a),(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Mitigated Negative Declaration, LSA agreement notification number 1600-2011-0169-R4, Biological Opinion (8-8-09-F-36), 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, ***the temporal impacts related to the increased time to fulfill a mitigation obligation***, 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 ~~50.64~~ **69.509** 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 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 Location
FIGURE 2	Photo of Aquatic habitat at Pool # 41 and # 42
FIGURE 3	San Juan Road Design Plans
FIGURE 4	Map of Potential CTS Breeding Locations
FIGURE 5	Map of Potential Impact Areas
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A	Habitat Management Lands Checklist
ATTACHMENT 3B	Proposed Lands for Acquisition Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 11/16/18



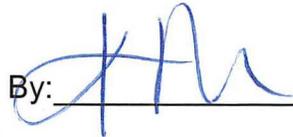
~~Jeffrey R. Single, Ph.D.~~ **Julie A. Vance**,
Regional Manager
CENTRAL REGION

APPROVED AS TO FORM:

~~John H. Mattox~~
Staff Counsel IV

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: 

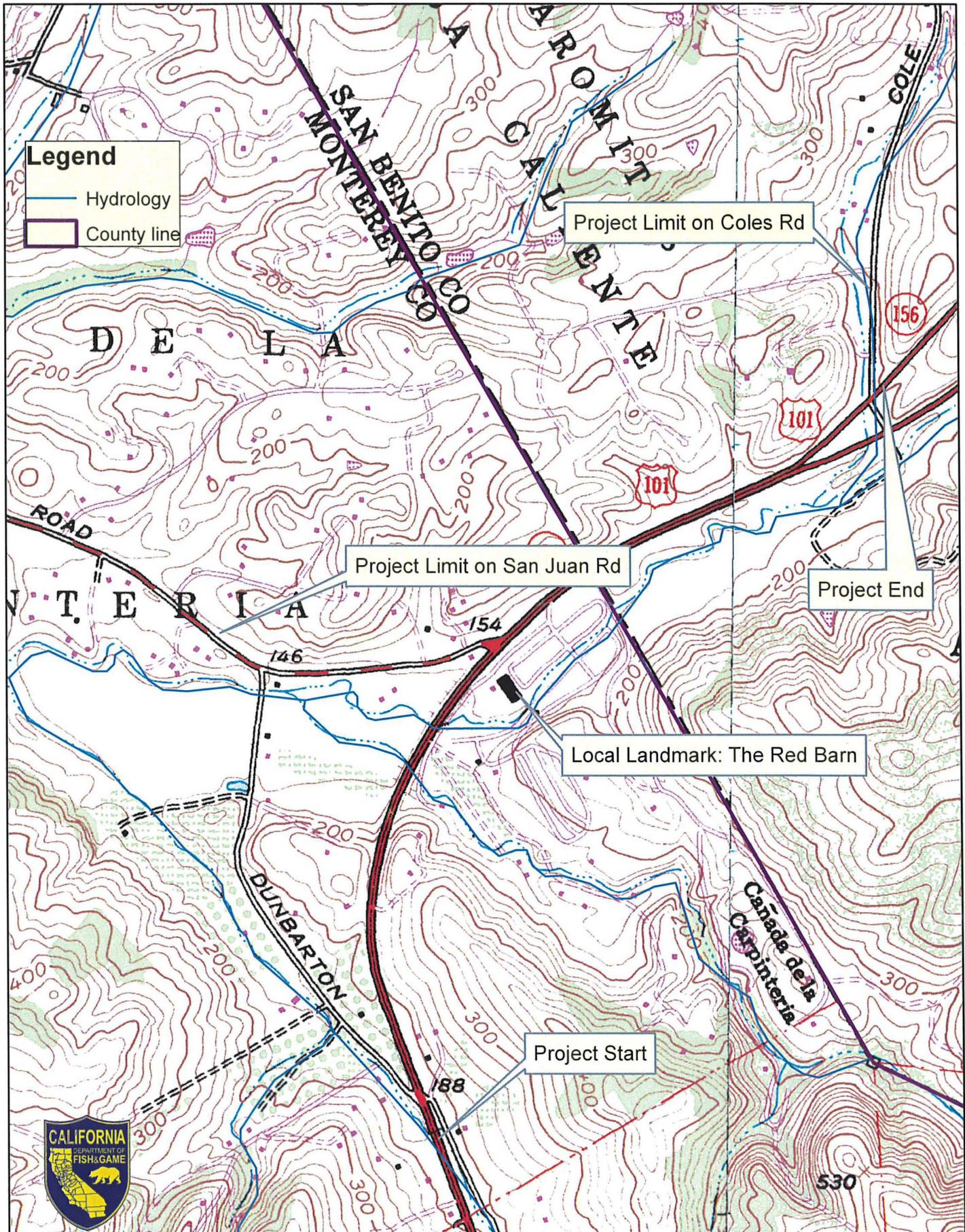
Date: 11/30/2018

Printed Name: Karen Holmes

Title: Senior Env. Planner

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Figure 1 - San Juan Road Project Location Map



By: LPD on 9-12-11

0 0.25 0.5 1 Miles



Figure 2 – Pools 41 and 42 which total 0.057 acres of aquatic habitat



Figure 3 - Caltrans Design Plans from the

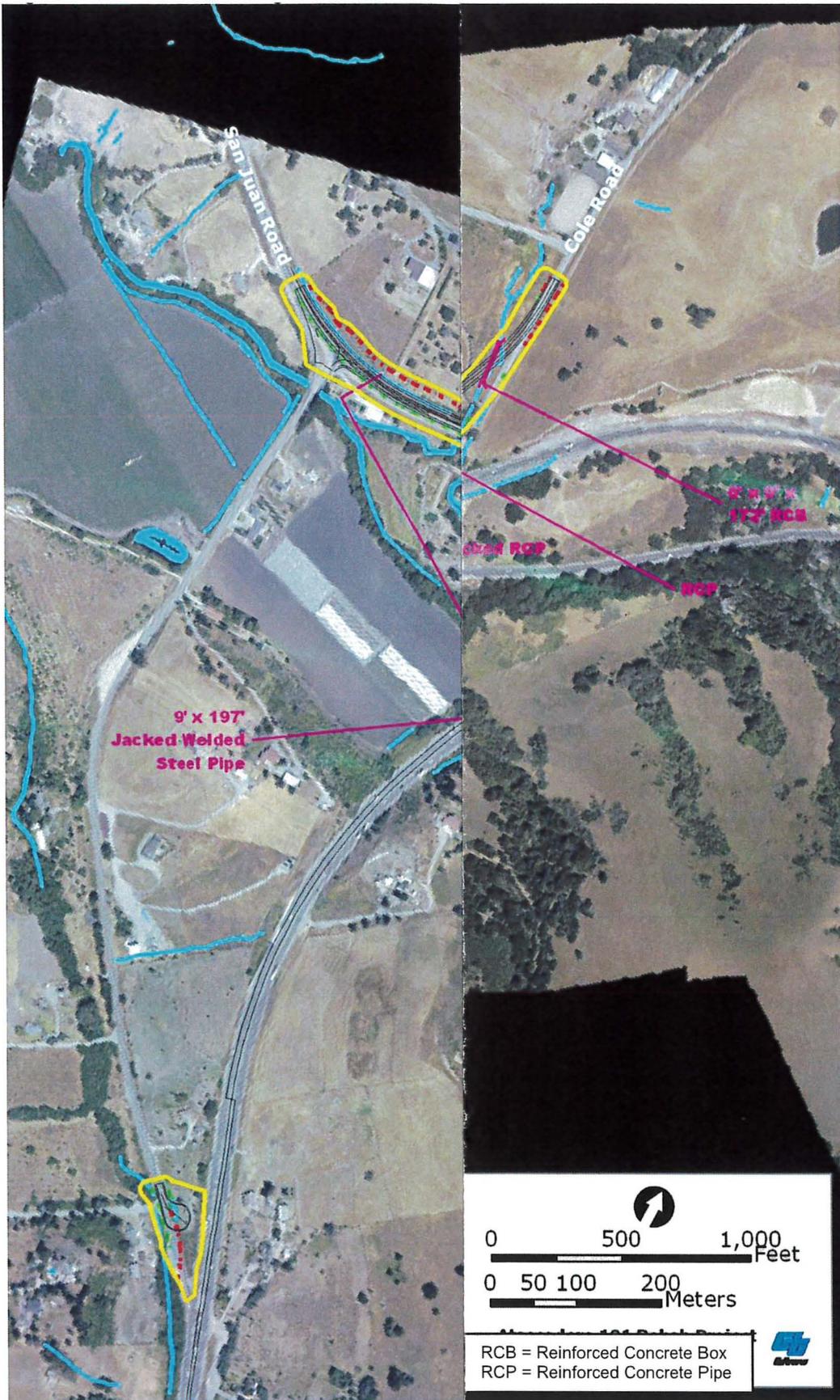


Figure 4. Potential California Tiger Salamander Breeding Locations

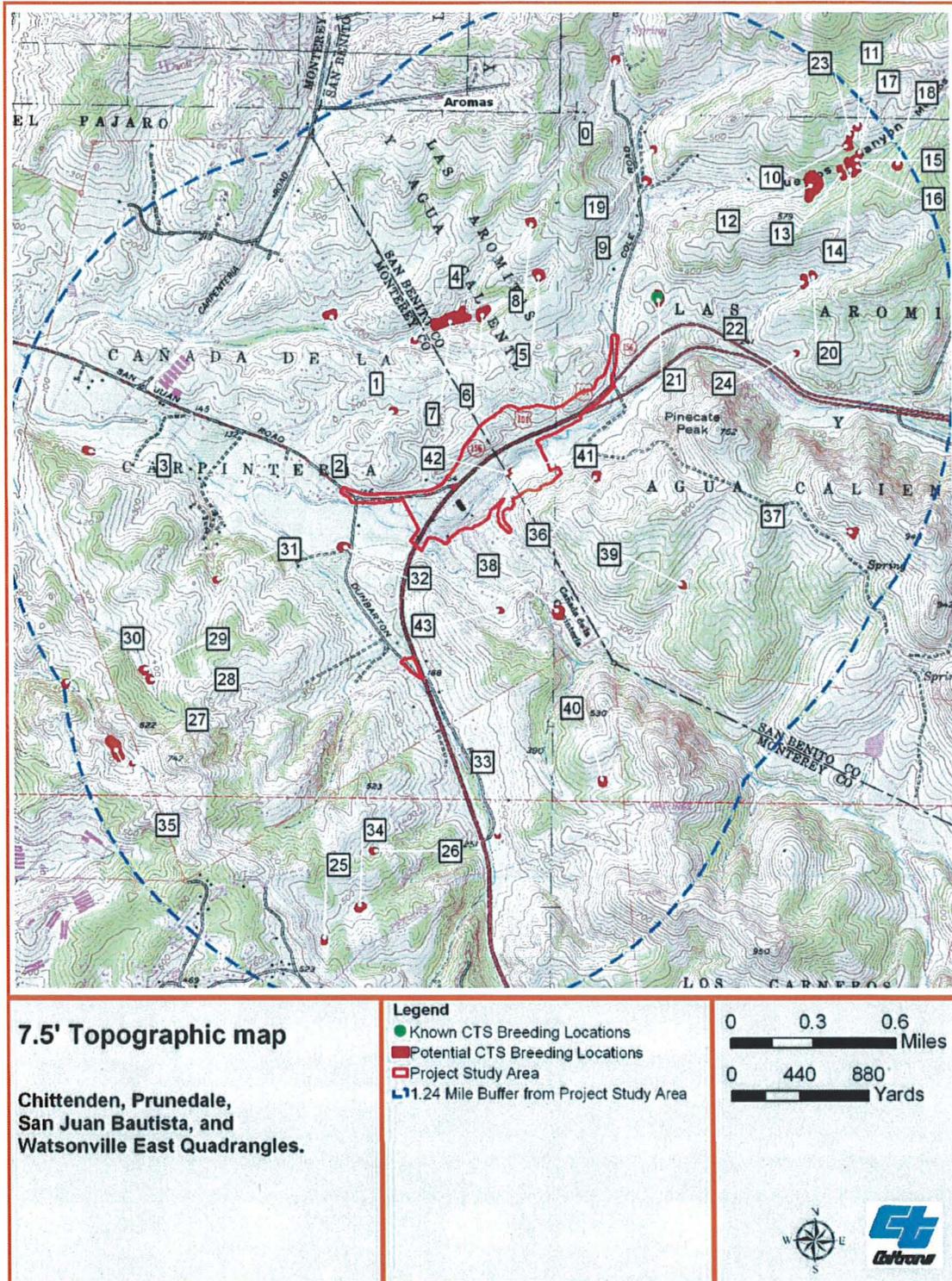
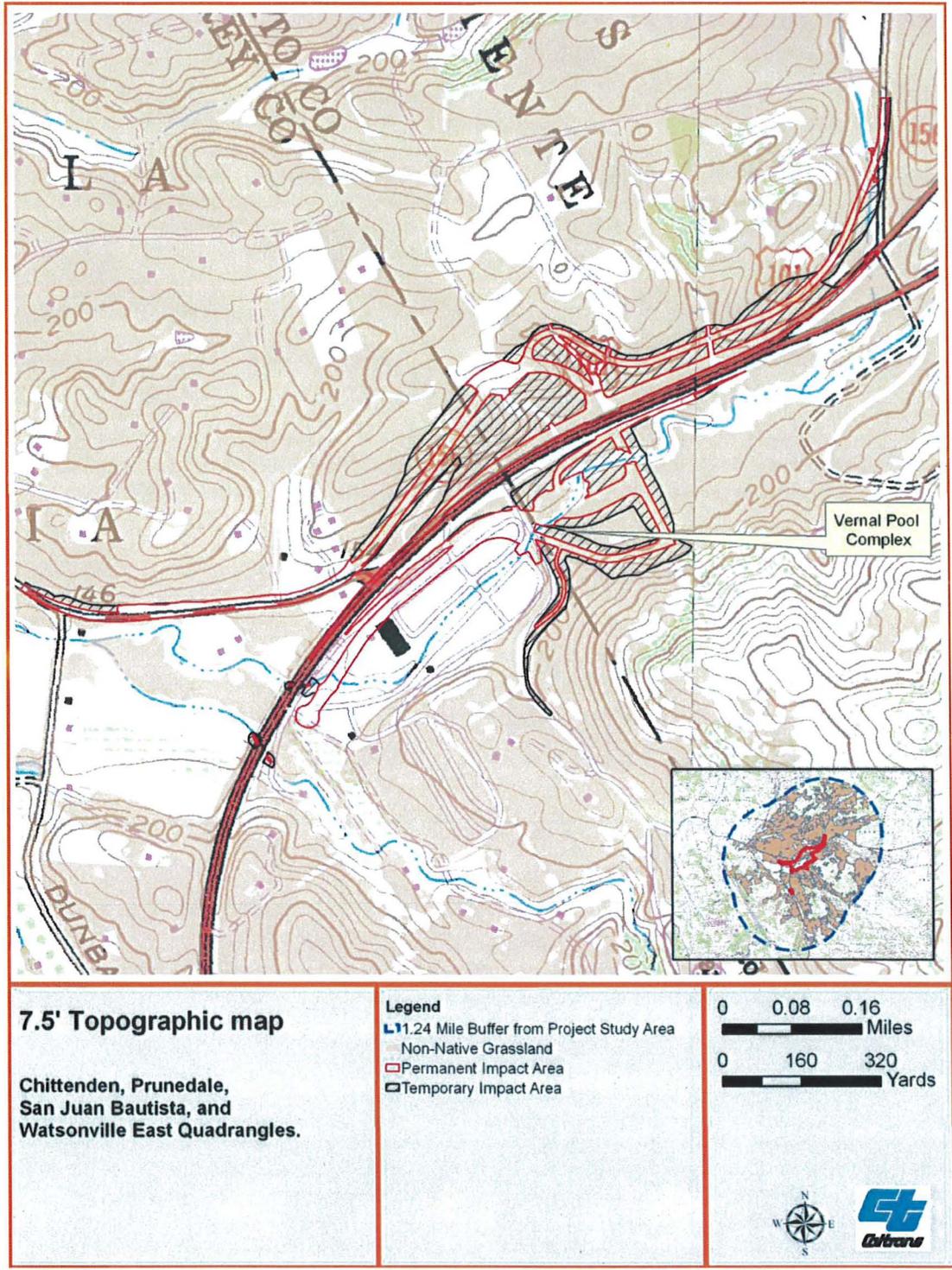


Figure 5 - Areas of potential impacts within the project footprint from the Incidental Take Permit Application for the San Juan Road Interchange Project



Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2018-029-04

PERMITTEE: California Department of Transportation (Caltrans)

PROJECT: San Juan Road Interchange

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the 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	6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the 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 the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
2	6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Designated Biologist before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist must have a valid California Scientific Collecting Permit (SCP) that includes 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. The Designated Biologist(s) may be assisted by approved biologists that do not have an SCP; these biologists shall be identified as Designated Monitors.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	6.4. 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 the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing 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. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
4	6.6. 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.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
5	6.7. 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.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	6.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
7	6.9. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
8	6.10. Delineation of Property Area. Before starting Covered Activities 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.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
9	6.11. 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.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
10	6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, 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. 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 the ITP if additional take of Covered Species may result from Project modification.	ITP Condition # 6.12	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
11	6.13. 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 6.12 of the ITP.	ITP Condition # 6.13	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
12	7.1. 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.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	7.3. California Tiger Salamander Relocation Plan. The Designated Biologist shall prepare a California tiger salamander relocation plan and submit it to CDFW for approval at least 30 days prior to the beginning of Covered Activities occurring within 1.3 miles of known and/or potential California tiger salamander breeding pools. Covered Activities within these areas may not proceed until CDFW approves the relocation plan in writing.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<p>9.1. 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:</p> <p>9.1.1. Conservation Easement acquisition estimated at \$1,011,040.00 \$1,112,144.00.</p> <p>9.1.2. Start-up costs for HM lands, including enhancement estimated at \$80,976.00;</p> <p>9.1.3. Interim management estimated at \$40,488.00;</p> <p>9.1.4. Long-term management endowment estimated at \$606,624.00 \$667,286.00</p> <p>9.1.5. Related transaction fees estimated at \$3,000.00.</p> <p>9.1.6. Restoration of on-site temporary effects estimated at \$1,091,130.00.</p>	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
15	<p>10. Performance Security</p> <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 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>10.1. Security Amount. The Security shall be in the amount of \$2,833,254.00 \$2,995,024.00. This amount is based on the cost estimates identified in Condition of Approval 9.1 above;</p> <p>10.2. Security Form. The Security shall be in the form of a funding assurance letter signed by the District Deputy Directors of Project Management and Environmental Planning and Engineering 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, or another mechanism approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP; whichever occurs first;</p> <p>10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>10.5. 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.</p> <p>10.6. 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 the ITP.</p> <p>10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by:</p> <ul style="list-style-type: none"> • Timely submission of all required reports; • An on-site inspection by CDFW; and • Written approval from CDFW. 	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities If Mitigation can not be completed before work is scheduled to begin	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
16	<p>9.2.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a special district, non-profit organization, for-profit entity, person, or other entity to hold title to the property provided that the district, organization, entity, or person meets the requirements of Government Code section 65965, et seq., 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 named third-party beneficiary. The Permittee shall obtain CDFW approval of any conservation easement before its recordation;</p> <p>OR</p> <p>Covered Species Credits. Permittee shall purchase at least 69.509 acres of Covered Species credits from a CDFW-approved conservation bank with a service area which encompasses the Project Area. The 69.509 acres of Covered Species credits shall include at least 0.132 acres of breeding habitat credits and at least 69.377 acres of upland habitat credits. The purchase of conservation bank credits must be completed, and Permittee shall provide CDFW proof-of-purchase prior to the ITP expiring.</p>	ITP Condition # 9.2.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
17	<p>9.2.2. HM Lands Approval. CDFW has already granted approval for Permittee to initiate negotiations with the Packards for recordation of a conservation easement on a portion of their property. If this falls through and other options must be pursued, then Permittee shall obtain CDFW 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 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;</p>	ITP Condition # 9.2.2	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
18	<p>9.2.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). 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;</p>	ITP Condition # 9.2.3	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
19	<p>9.2.4. Land Manager. Designate an interim and long-term land manager approved by CDFW. The land manager may be the conservation easement grantee, landowner, or other party. Documents related to land management shall identify the land manager. 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 long-term land manager unless otherwise specified.</p>	ITP Conditions # 9.2.4	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	<p>9.2.5. 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 http://www.CDFW.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;</p>	ITP Conditions # 9.2.5	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
21	<p>9.2.6. 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. 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 for annual payment to the land manager.</p>	ITP Conditions # 9.2.6	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
22	<p>9.3. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.2, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the final management plan and conservation easement 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 9.2.5. Endowment, as used in the ITP, shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the 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 the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Conditions # 9.3	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	<p>9.3.1. Identify an Endowment Fund Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or an entity qualified pursuant to Government Code section 65965-65968, et seq., as amended, and approved in writing by CDFW in its sole discretion. Permittee shall submit to CDFW a written proposal for an Endowment Manager along with a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). CDFW shall notify Permittee in writing of its approval or disapproval of the proposed Endowment Manager. If CDFW does not approve the proposed Endowment Manager, it shall provide Permittee with a written explanation of the reasons for its disapproval.</p>	ITP Conditions # 9.3.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
24	<p>9.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW approval of the HM lands, long-term management plan, and Endowment Fund Manager, Permittee shall prepare a Property Analysis Record (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 Escrow Account or the Endowment Fund Manager.</p>	ITP Conditions # 9.3.2	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
25	<p>9.3.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Fund Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees. If the funds for the Endowment Fund will be placed in an Endowment Escrow Account, the capitalization rate and PAR shall be calculated to take account of the reasonably anticipated rate of return for the funds while held in escrow.</p>	ITP Conditions # 9.3.2.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
26	<p>9.3.2.2. 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 Fund:</p> <p>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>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>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 Fund Manager and CDFW.</p>	ITP Conditions # 9.3.2.2	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
27	<p>9.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Escrow Account or the Endowment Fund Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Fund Manager may pool the Endowment Fund 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 Fund.</p>	ITP Conditions # 9.3.3	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
28	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.	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
DURING CONSTRUCTION					
29	6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that is not in compliance with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	Permittee	
30	6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of the 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
31	7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or the MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
32	7.4. 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 the 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, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.4	Entire Project	Permittee	
33	7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.4 into a Monthly Compliance Report and submit it to CDFW along with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted via e-mail to CDFW's Regional Representative. At the time of the ITP's approval, the CDFW Regional Representative is Laura Peterson-Diaz Steven Hulbert (lpdiaz@CDFW.ca.gov steven.hulbert@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 # 7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	7.6. 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 the 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 7.5 (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, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.6	Entire Project	Permittee	
35	7.7. CNDDB Observations. 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 # 7.7	Entire Project	Permittee	
36	6.14. Hazardous Waste. Permittee shall immediately stop and following 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 # 6.14	Entire Project	Permittee	
37	6.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.15	Entire Project	Permittee	
38	8.1. A Designated Biologist(s) shall be on-site daily during all initial surface-disturbing activities to minimize potential impacts to the Covered Species; to check for compliance with all required measures; to check all exclusion zones; and to ensure that signs, stakes, and fencing are intact, and that human activities are restricted to outside of these protective zones. The Designated Biologist(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist(s) shall prepare written records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP.	ITP Condition # 8.1	Entire Project	Permittee	
39	8.2. If any Covered Species are found in the Project Area during construction, all work that could potentially harm the Covered Species shall stop immediately until the Designated Biologist(s) can relocate the Covered Species to an active rodent burrow system. Only approved Designated Biologist(s) with the state SCP and the appropriate federal permit for amphibians are authorized to capture and handle Covered Species. The Designated Biologist(s) shall identify relocation areas prior to the start of construction in accordance with the approved Relocation Plan.	ITP Condition # 8.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	8.3. All Covered Species sightings confirmed by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology, the name of the party that actually identified the animal, circumstances of the incident, the general condition and health of each individual, any diagnostic markings, sex, age (juvenile or adult), and actions undertaken and habitat description. Permittee shall submit this information to the CNDDDB. This information should also be included in the Monthly Compliance Report.	ITP Condition # 8.3	Entire Project	Permittee	
41	8.4. Any small mammal burrows present within the portion of the Project area 400 meters from the outermost periphery of Pond 21 (as shown in Figure 4), shall be fully excavated by hand by the Designated Biologist(s). The Permittee will continue excavating burrows beyond 400 meters until 200 burrows have been hand excavated. The Permittee shall relocate any live Covered Species as per the relocation plan prepared pursuant to Condition of Approval 7.3. If one Covered Species is encountered during the excavation of the first 200 burrows, then an additional 100 burrows closest to the outermost periphery of the known breeding Pond, Pond 21, will be hand excavated.	ITP Condition # 8.4	Entire Project	Permittee	
42	8.5. Fill or other ground-disturbing activities within or immediately adjacent to the Covered Species' potential breeding habitat within the permanent impact area, consisting of 0.057 acres located on the east side of Balentree Lane just south of the tributary to the Elkhorn Slough, shall be confined to the dry season from June 15 to October 31.	ITP Condition # 8.5	Entire Project	Permittee	
43	8.6. Covered activities within Covered Species potential upland habitat shall be restricted to periods of low rainfall (less than 1/2 inch precipitation per 24-hour period). Permittee shall monitor the National Weather Service (NWS) 72-hour forecast for the Project area. 8.6.1. If a 50 percent or greater chance of rainfall is predicted within 24 hours of Project activity, a Designated Biologist shall survey the Project site before construction begins EACH day rain is forecast. If Permittee uses a Designated Monitor to conduct surveys, a Designated Biologist must still be available to capture and relocate any Covered Species discovered during the surveys. 8.6.2. If precipitation begins, then a Designated Biologist shall be at the Project site for the duration of the rain event in order for work to continue. If a Designated Monitor is used, then a Designated Biologist must still be on call and available to relocate any Covered Species discovered. 8.6.3. If rain exceeds 1/2 inch during a 24-hour period, all covered work activities shall cease until it is no longer raining and no further rain is forecast.	ITP Condition # 8.6	Entire Project	Permittee	
44	8.7. All Covered Activities within Covered Species potential upland habitat shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise during the migration/active season from November 1 to June 14. Permittee shall use sunrise and sunset times established by the United States Naval Observatory Astronomical Applications Department for the geographic area where the Project is located. If night work cannot be avoided during this time period, a Designated Biologist shall survey the Project site before construction begins each night. If Permittee uses a Designated Monitor to conduct surveys, a Designated Biologist must still be available to capture and relocate any Covered Species discovered during the surveys.	ITP Condition # 8.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	8.8. Permittee shall prohibit all night work within potential Covered Species upland habitat when a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, until no further rain is forecast.	ITP Condition # 8.8	Entire Project	Permittee	
46	8.9. Permittee shall place soil stockpiles where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "waters of the state," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 8.9	Entire Project	Permittee	
47	8.10. Within 1.24 miles of known or potential Covered Species breeding sites (including but not limited to the sites shown on Figure 1), Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent Covered Species from exiting the roadway. If curbs are necessary for safety and/or surface runoff, the Permittee shall design them to allow Covered Species to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow Covered Species to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow Covered Species passage.	ITP Condition # 8.10	Entire Project	Permittee	
48	8.11. To ensure that the Designated Biologist(s) do not convey disease between work sites, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.11	Entire Project	Permittee	
49	8.12. Designated Biologists shall inspect all open trenches, auger holes, and other excavations that may trap Covered Species prior to any work in or around them and before they are backfilled. Designated Biologists shall safely remove and relocate any Covered Species they find in accordance with the ITP.	ITP Condition # 8.12	Entire Project	Permittee	
50	8.13. Covered Species Injury. If a Covered Species 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 Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.13	Entire Project	Permittee	
POST-CONSTRUCTION					
51	6.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and 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 # 6.16	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	9.5. Habitat Restoration. Permittee shall restore on-site the 29.49 acres of Covered Species habitat that will be temporarily disturbed during construction to pre project or better conditions. Within 6 months of issuance of the ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 29.49 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. The Plan shall also indicate the best time of year for seeding to occur and the dates when regular watering would be required to ensure adequate growth. The Plan shall be implemented the first season appropriate. Described below are the measures and success criteria that must be included in the Vegetation Restoration Plan.	ITP Condition # 9.5	Post-construction	Permittee	
53	9.5.1. Identifying species damaged or removed during Project activities. Native trees and shrubs (e.g., oak, willow, cottonwood, sycamore, etc.) between four to 25-inches diameter at breast height (DBH) shall be replaced in kind at a ratio of 3:1, and trees greater than 25-inches DBH shall be replaced at a ratio of 10:1.	ITP Condition # 9.5.1	Post-construction	Permittee	
54	9.5.2. Describing when, where, and how replacement shrubs and trees will be planted. "When" shall be the first suitable season after construction is complete. "Where" shall include a planting layout design with sufficient space appropriate for each species. "How" shall include measures to be implemented (i.e., irrigation methods, weed management, maintenance and replanting if necessary) to ensure a minimum of 70 percent survivorship for three (3) years, after the last planting, (i.e., if up to 30 percent of any of the species are at risk of not surviving and repeated plantings are necessary, then monitoring, maintenance, and annual reporting shall continue for the subsequent three (3) years).	ITP Condition # 9.5.2	Post-construction	Permittee	
55	9.5.3. For seeding and mulching exposed slopes, the seed blend shall include a minimum of three (3) locally native grass species. Locally native wildflower and/or shrub seeds may also be included in the mix. One or two sterile non-native perennial grass species may be added to the seed mix provided that amount does not exceed 25 percent of the total seed mix by count. Seeding shall be completed as soon as possible, but no later than November 15 of the year construction ends.	ITP Condition # 9.5.3	Post-construction	Permittee	
56	9.5.4. At the discretion of the Department, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.	ITP Condition # 9.5.4	Post-construction	Permittee	
57	7.8. 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 the 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 # 7.8	Post-construction after completion of mitigation	Permittee	

The Declining Amphibian Task Force Fieldwork Code of Practice

A code of practice, prepared by the Declining Amphibian Task Force (DAPTF) to provide guidelines for use by anyone conducting field work at amphibian breeding sites or in other aquatic habitats. Observations of diseased and parasite-infected amphibians are now being frequently reported from sites all over the world. This has given rise to concerns that releasing amphibians following a period of captivity, during which time they can pick up unapparent infections of novel disease agents, may cause an increased risk of mortality in wild populations. Amphibian pathogens and parasites can also be carried in a variety of ways between habitats on the hands, footwear, or equipment of fieldworkers, which can spread them to novel localities containing species which have had little or no prior contact with such pathogens or parasites. Such occurrences may be implicated in some instances where amphibian populations have declined. Therefore, it is vitally important for those involved in amphibian research (and other wetland/pond studies including those on fish, invertebrates and plants) to take steps to minimize the spread of disease and parasites between study sites.

1. Remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires and all other surfaces. Rinse cleaned items with sterilized (e.g. boiled or treated) water before leaving each study site.
2. Boots, nets, traps, etc., should then be scrubbed with 70% ethanol solution (or sodium hypochlorite 3 to 6%) and rinsed clean with sterilized water between study sites. Avoid cleaning equipment in the immediate vicinity of a pond or wetland.
3. In remote locations, clean all equipment as described above upon return to the lab or "base camp". Elsewhere, when washing machine facilities are available, remove nets from poles and wash with bleach on a "delicates" cycle, contained in a protective mesh laundry bag.
4. When working at sites with known or suspected disease problems, or when sampling populations of rare or isolates species, wear disposable gloves and change them between handling each animal. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately and the end of each field day.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.

ATTACHMENT 3A
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)



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>
_____	_____	_____	_____	_____

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: _____

Attachment 4

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.

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

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)

2081 Permit
 Conservation Bank
 2835 NCCP
 1802 Agreement
 1600 Agreement
 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: _____	