California Department of Fish and Wildlife
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534

California Endangered Species Act
Incidental Take Permit No. 2081-2017-019-03

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
ALAMEDA CREEK RECAPTURE PROJECT

Authority:

This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take[1] of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.[2] CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	**San Francisco Public Utilities Commission (SFPUC)**
Principal Officer:	**Susan Hou, Project Manager**
Contact Person:	**Debbie Craven-Green, 415-934-5756**
Mailing Address:	**525 Golden Gate, 6th Floor, San Francisco, CA 94102**

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, 2025.**

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 of this ITP.

[1]Pursuant 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"].)

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

Project Location:

The SFPUC Alameda Creek Recapture Project (Project) is located south of the Interstate 680 (I-680)/State Route 84 (SR-84) interchange and west of Calaveras Road in unincorporated Alameda County (See Figure 1). The Project facilities and Pit F2 and F3 West are located downstream (north) of the confluence with San Antonio Creek (Pit F4 is south of San Antonio Creek) and south of I-680 and the confluence with Arroyo de la Laguna, and approximately six miles north of Calaveras Reservoir, seven miles northwest of the Alameda Creek Diversion Dam (ACDD), and one mile west of San Antonio Reservoir. The Project is within the La Costa Valley U.S. Geological Survey (USGS) 7.5 Minute Quadrangle, at approximately 37°34'38.84" N and -121°52'17.63" W.

Project Description:

The Project objectives include (1) to recapture the water that will have otherwise been stored in Calaveras Reservoir due to the release and bypass of flows from Calaveras Dam and the ACDD, respectively, to meet instream flow requirements, thereby maintaining the historical annual transfers from the Alameda watershed system to the Permittee regional water system in accordance with the City and County of San Francisco's (CCSF's) existing water rights; and (2) to minimize impacts on water supply to the Permittee's wholesale and retail customers during droughts, system maintenance, and in the event of water supply problems or transmission disruptions in the other parts of the Permittee regional water system.

The Permittee will pump water from Surface Mining Permit 24 (SMP-24) quarry Pit F2 and transfer it to the regional water system for municipal use. Pit F2 is no longer actively mined, but it is used to store and manage water to support active mining and aggregate processing for other quarry pits. Implementation of the water recapture will require that SFPUC construct several improvements in and around Pit F2 to pump the water from the quarry pit and convey it to existing water supply infrastructure in the Sunol Valley, including:

- Four 400-horsepower vertical turbine pumps on floating barges centrally located in Pit F2, approximately 400 feet from the shore, with a mooring system to secure the floating barges.
- Four approximately 700-foot-long, 16-inch-diameter high density polyethylene (HDPE) flexible discharge pipelines extending from each vertical turbine pump to a new pipe manifold located on shore.
- A 100-foot-long, 36-inch-diameter welded steel pipeline connection between the new pipe manifold and the existing Sunol Pump Station Pipeline.
- Throttling valves and a flow meter.

- An electrical control building.

- An electrical transformer, and thirteen power and fiber optic line poles, and approximately 1,800 feet of overhead power lines extending from Hetch Hetchy Water & Power (HHWP) Calaveras Electrical Substation to the new electrical control building. In addition, approximately 2,800 feet of both overhead fiber optic communication lines and overhead power lines will extend from the HHWP Calaveras Electrical Substation to the new electrical control building along the new and existing power poles with conduit installed along the power poles to install water level sensors in Pits F3 West and Pit F4.

Pumps on Floating Barges

The pump system will consist of four 400-horsepower vertical turbine pumps, each mounted onto separate fiberglass barges that will float on the water surface in Pit F2. Each barge will be approximately 18 feet long, 14 feet wide, and 4 feet deep (hull) and will hold one complete pump/motor assembly. Four legs under each barge hull will be used for ballasting and will provide bottom-out support. The four fiberglass barges will be tethered together. Platforms will be installed between the barges to allow access from one barge to the next.

A mooring system will be installed to secure the barges and to prevent them from making contact with the quarry pit walls and will also prevent tension between pump discharge flanges and the HDPE discharge pipelines. The mooring system will be comprised of manual winches installed at the barge corners or mooring anchor blocks, stainless steel wire rope (mooring line), and four drilled pier anchors on shore, outside of the quarry pit. Each pier will be 30 inches in diameter and 30 feet deep. A concrete post mounted on each pier will extend approximately 4 feet above the ground surface. A 10-foot by 10-foot by 2.5-foot thick concrete pad will surround the drilled pier anchor.

The access road leading into Pit F2 (approximately 900 linear feet) along the west side of the pit will be developed with a 12-inch gravel subbase to improve access to the pond, particularly for heavy equipment.

HDPE Discharge Pipelines

Each vertical turbine pump will discharge into separate 700-foot-long, 16-inch-diameter HDPE discharge pipelines that will connect to the pipe manifold on shore. The HDPE discharge pipelines will float on the surface of the water and lay on the slope surface of the quarry pit. Flotation collars and/or other types of strap-on flotation devices might be used to ensure flotation of the discharge pipelines on the water surface. At approximately 245 feet above mean sea level (msl), the HDPE discharge pipelines will transition from aboveground to underground, terminating at the pipe manifold, approximately 80 feet from the edge of the quarry pit. Approximately 160 feet of the 700-foot-long HDPE discharge pipelines will be buried roughly 7 feet below ground.

Pipe Manifold

The four 16-inch-diameter HDPE discharge pipelines will transition to four 16-inch steel pipes and connect to a pipe manifold located on land near the edge of the quarry pit. The pipe manifold will merge flows from the four 16-inch diameter steel pipelines into a 36-inch-diameter steel pipeline connection (described below) to the existing Sunol Pump Station Pipeline. The inlets of the manifold will be equipped with throttling valves, check valves, and isolation valves to allow facility operators to isolate flows and take pumps offline for maintenance and repairs. The manifold and all of its adjoined parts will be housed underground.

New Pipeline Connection to Existing Sunol Pump Station Pipeline

A 100-foot-long segment of 36-inch-diameter steel pipeline will connect the outlet of the pipe manifold to the existing Sunol Pump Station Pipeline. The connection point will be a concrete bell or spigot joint or a steel butt-strap.

Throttling Valves and Flow Meter

The downstream side of each HDPE discharge pipeline will include a throttling valve before connecting to the pipe manifold. The throttling valves will be housed within a partially-buried concrete vault measuring approximately 17 feet long, 37 feet wide, and 15 feet deep. The vault will extend approximately 2.5 feet above grade and will be equipped with access hatches to allow for maintenance. Site grading around the vault will be adjusted to drain away from the vault. A flow meter will be installed along the new steel 36-inch-diameter pipeline connection, approximately 50 feet downstream of the pipe manifold. The flow meter will be located entirely underground. A flow meter vault sized 10 feet by 8 feet by 3 feet deep will house the flow meter pressure sensing lines. If necessary, the throttling valves, in combination with the flow meter, will be used to regulate the flow of the single-speed vertical turbine pumps. The throttling valves will be motorized by means of an actuator. A 5-foot by 5-foot by 2-foot-high concrete pad will be placed next to the throttling vault to house the sampling station cabinet.

Electrical Control Building

A pre-engineered metal electrical control building will be located on the south side of Pit F2 and will house the electrical equipment and instrumentation for the Project. The building will be approximately 29 feet wide, 68 feet long, and 28 feet tall set on an approximately 29 feet by 76 feet concrete pad. A portion of the existing developed access road along the south side of Pit F2 will be paved (0.07 acre) for the driveway and parking area for the electrical control building. Chain-link security fencing will enclose an approximately 17,670 square-foot area around the electrical control building and transformer. Exterior lighting fixtures will be either compact fluorescent or LED light controlled by a time clock/photocell and light switch. Exterior

lights will face downward and will be shielded. The building will be designed to include space for future solar equipment. A 9-foot long by 7-foot-wide concrete pad for the HVAC will be placed next to the electrical building. Site grading around the building will be adjusted to drain away from the infrastructure. Six native trees will be planted around the building.

Approximately 2,800 feet of fiber optic communication lines will be installed overhead between the electrical control building and the HHWP Calaveras Electrical Substation. The new communication lines will connect to existing communication lines that extend between the HHWP Calaveras Electrical Substation and SVWTP and will be mounted on the same poles as the proposed overhead power lines as well as existing overhead power poles.

Power Supply Infrastructure

Electrical Transformer

A new outdoor electrical transformer will be constructed adjacent to the electrical control building. The transformer will be oil-cooled with food grade seed oil, which is biodegradable and less flammable than standard transformer oils. The electrical transformer will be approximately 9 feet long and 7 feet wide. The concrete pad beneath the transformer will be approximately 22 feet long and 17 feet wide and will be curbed to provide secondary containment for any spilled oil. An outlet pipe will drain water out of the containment area, but if oil is detected, the flow will stop. If an oil leak is detected, the system will send an alarm to SFPUC facility operators to clean up the oil manually in accordance with a Spill Prevention Control and Countermeasure (SPCC) plan. The secondary containment will have the capability to store a minimum of 660 gallons of oil leakage plus an additional 20 percent volume. A 5.5-foot by 5.5-foot concrete pad will be placed next to the transformer pad to house the neutral grounding resistor. Site grading around the pad will be adjusted to drain away from the infrastructure.

Uninterruptible Power Supply

The electrical control building will be constructed with an uninterruptible battery power supply for the Supervisory Control and Data Acquisition (SCADA) system to enable SFPUC facility operators to operate instrumentation and security equipment remotely during an emergency.

Power from HHWP Calaveras Electrical Substation

Electrical power for Project operations will be provided by the existing HHWP Calaveras Electrical Substation at the southeastern Project area boundary (just west of Calaveras Road and south of San Antonio Creek).

Approximately 2,800 feet of 21.6 kilovolt (kV) overhead powerlines will be installed between the HHWP Calaveras Electrical Substation and the new electrical transformer at the new

electrical control building. The power lines will transition from aboveground to underground at the last power pole. At the last power pole, the power lines will be encased in an underground electrical conduit and will provide an underground power connection between the electrical transformer and the electrical control building. It is estimated that 13 poles, 50 feet tall and 12 inches in diameter, will be installed for the approximately 2,800-foot-long overhead powerline. No powerline poles will be installed within waters or riparian habitat, and installation of the wire across San Antonio Creek will not require equipment in the creek/riparian corridor or the removal of trees. A worker will walk a rope across the dry creek bed (already attached to one pole) and attach it to the pole on the other side of the creek. The wire will then be attached and installed across the creek via a pulley system.

Approximately 700 feet of underground and submersible power cables will connect the turbine pumps mounted on floating barges in Pit F2 to the electrical control building. The power cables will be placed in an underground electrical conduit for approximately 160 feet, between the transformer and the point where the cables will daylight at the southern quarry pit slope. At the southern quarry pit slope, the cables will transition into submersible cables at an electrical vault sized 12 feet wide by 9 feet long and approximately 7 feet in depth, which will be attached and aligned parallel to the 620-foot-long segment of the HDPE discharge pipelines. The bundled power cables and HDPE discharge pipelines will extend across the surface of the quarry pit.

Water Level Sensor Monitors

Water level sensors will be established in Pits F3 West and F4. Conduit for water level sensor monitors will be run along proposed and/or existing power poles. Conduit will then be trenched approximately 20 feet and 260 feet from a power pole to the rim of Pit F3 West and F4, respectively. An underground pull box will be installed at the top of each quarry pit, measuring approximately 17 inches wide by 30 inches long and 24 inches deep. The conduit will then extend from the pull box within a one-inch HDPE pipe and be placed approximately 200 feet down the slope at the bottom of each pit and weighted or anchored in place. Installation of the sensors along the slope and bottom of the quarry pits will not require special equipment, and the water level in the pits will not need to be lowered for the installation of the sensors.

Site Clearing and Preparation

As necessary, the contractor will clear and grade the construction work area (including staging areas) by removing vegetation and debris to provide a relatively level surface for the movement of construction equipment and placement of construction offices. In addition to grading the ground surface, there may be a need to mow or place gravel over staging areas for fire prevention purposes. Some trees and/or vegetation on the side wall of Pit F2 could require trimming and/or removal to accommodate installation of the discharge pipelines and

mooring lines on the slope. In addition, one tree that exists near the proposed electrical control building and electrical transformer will also be removed.

Demolition

Before the new 36-inch diameter pipeline connection to the Sunol Pump Station Pipeline is installed, an approximately 100-foot-long section of the existing Sunol Pump Station Pipeline, a concrete manhole, and the inactive 100-foot-long aboveground emergency intertie pipeline associated with the South Bay Aqueduct will be demolished.

To demolish these structures, the Permittee will excavate the areas around the two existing pipeline segments to expose the structures. A cutting saw will be used to cut the pipes into manageable sections, then the pipe sections will be removed from the trench and transported to an adjacent staging area using a crane or excavator. At the staging areas, jackhammers will be used to separate concrete and metal. The concrete and metal debris will then be hauled to a landfill or recycling facility for reuse.

Staging Areas and Access

There may be up to five primary staging areas located along the gravel access roads bordering quarry Pits F2, F3-East, and F3-West and adjacent to Calaveras Road. These staging areas will provide a combined total of two acres for vehicle and equipment parking, temporary stockpiling of excavated material, construction trailers, and materials storage. Most proposed staging areas are within previously disturbed/developed areas on CCSF-owned lands. Site access will be through existing roads.

Dewatering

Three types of dewatering discharges are anticipated during Project construction: (1) dewatering of groundwater and/or rainwater in open excavations; (2) dewatering of raw water in existing pipelines before new connections are made (since pipelines are kept “charged” (full of raw water) when not in use); and (3) discharges of water after cleaning the newly installed pipes before they are connected to the regional water system.

Dewatering of excavated areas would be temporary and would only be necessary when surface water or subsurface water is encountered. It is anticipated that construction workers would encounter water in construction excavations, including excavations for the drilled piers and pipeline trenches. If lowering the water level in Pit F2 is necessary to facilitate construction in open excavations, the construction contractor would adhere to the recommendations made in the final Geotechnical Evaluation Report regarding acceptable drawdown rates to address the potential for slope instability in the quarry pit walls. The contractor would passively treat water from excavated areas as necessary prior to discharge. The treatment could include settling tanks or filter bags to allow sediment to settle out. Water

from excavated areas would be discharged to vegetated upland areas (so it could infiltrate naturally into the ground), used for dust control, or would be discharged to San Antonio Creek, Alameda Creek, or Pit F3-East (after treatment for sediment, if necessary) in accordance with applicable regulatory requirements.

Before connecting the 36-inch-diameter pipeline to the existing Sunol Pump Station Pipeline, the contractor would drain the water from the Sunol Pump Station Pipeline and discharge it to the quarry pit, San Antonio Creek, or Alameda Creek. System operators would clean the newly installed 36 inch-diameter pipeline connection by removing materials and debris and flushing with water before bringing the pipe into service. Wash water from newly installed pipelines and pipeline connections would also be discharged to a quarry pit, San Antonio Creek, or Alameda Creek in accordance with applicable regulatory requirements.

Spoils Management and Disposal

Proposed excavation and construction activities will generate excess soil and rock material (spoils) totaling approximately 2,296 cubic yards. The excess excavated material generated during Project construction will be placed at a permanent spoils placement site along Calaveras Road. The permanent spoils site encompasses approximately 3.7 acres immediately east of Pit F3-East and west of Calaveras Road. Spoils will be piled to a maximum height of 25 feet and with 2:1 (horizontal: vertical) slope. This site has already been used for the permanent placement of approximately 100,000 cubic yards of spoils generated by other Water System Improvement Program facility improvements projects in the Sunol Valley. Alternatively, if feasible, the spoils could be temporarily placed at either the SMP-24 or Surface Mining Permit 30 (SMP-30) aggregate processing facilities for subsequent processing, resale, and reuse by the quarry operators. Spoils determined to be of poor quality or excess spoils that could not be sold for reuse or permanently placed in an earthen berm at the permanent spoils site (such as existing pipe, large concrete blocks, etc.) will be hauled out of the Sunol Valley and disposed of at one or more of the following waste disposal facilities: Altamont Landfill in Livermore; Tri-Cities Landfill in Fremont, or Vasco Road Landfill in Livermore.

Project construction activities associated with generation of spoils and disposal, mooring anchors, power poles and electrical buildings, and valve vaults water level sensors, and pipelines will result in approximately 6.9 acres of ground disturbance including 2 acres for staging. Once the construction site is demobilized, the Permittee will remove any added gravel, contour the site to its original profile, and hydroseed all vegetated areas that were disturbed during construction. The Permittee will restore disturbed areas to their pre-construction conditions. Restoration of the Project area will include reestablishing pre-construction contours and drainage patterns and revegetating disturbed areas that were vegetated prior to construction. In addition, six native trees will be planted around the perimeter of the electrical control building. Project activities include grubbing and grading, trench digging, pile driving, augering, dewatering and other activities.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (*Ambystoma californiense*)	Threatened[3]
2. Alameda whipsnake (*Masticophis lateralis euryxanthus*) also known as Alameda striped racer (*Coluber lateralis euryxanthus*)	Threatened[4].

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include grading, excavating, trenching, auguring, and other earthmoving activities associated with construction, movement of vehicles and other construction activities in upland areas, storage of construction materials and equipment on site, installation of fencing, re-contouring and restoration activities, vegetation management, and/or relocation activities prescribed by this ITP (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities from destruction of burrows or dens that the Covered Species inhabit, by being crushed under moving vehicles and equipment, disturbance in the vicinity of dens or burrows, and desiccation or predation along fence lines and other barriers to movement. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture and relocation attempts as required by this ITP. Relocation could, absent implementation of protective measures, result in mortality, injury, and/or disease transmission to Covered Species by individuals involved in the relocation effort. The areas where authorized take of the Covered Species is expected to occur include: any location within the 22.93-acre Project footprint or along access routes (collectively, the Project Area).

Construction of permanent aboveground structures would result in direct permanent loss of 0.35 acre of habitat for the Covered Species. Permanent aboveground structures include the electrical control building (including HVAC), driveway, parking area, electrical transformer (including neutral grounding resistor), electrical vault, and valve vault (including sampling station cabinet), all located in and around a permanent chain-link fenced area, power poles,

[3]See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).
[4]See *Id.*, subd. (b)(4)(D).

and anchor blocks.

Construction of the anchor blocks, which includes the area along the western edge of Pit F2 that would be temporarily excluded with exclusion fencing, would result in short-term temporary impacts to 5.16 acres of habitat for the Covered Species.

Use of the staging areas and spoils sites; construction of the HDPE discharge pipelines, pipe manifold, 100-foot 36-inch diameter pipeline connection to Sunol Pump Station, throttling valves and valve vault, flow meter, electrical control building, driveway and parking area, chain-link fencing, electrical transformer, power lines, power poles, fiber optic communication lines, and power cable trench areas; demolition of a segment of the Sunol Pump Station Pipeline, a concrete manhole, the inactive 200-foot-long aboveground emergency intertie pipeline associated with the South Bay Aqueduct; and the large project area around these temporary work areas that would be temporarily excluded with exclusion fencing would result in semi-permanent impacts to 11.86 acres of habitat for the Covered Species.

There are 10.63 acres of land characterized as developed/disturbed or landscaped within the work area; while these areas may be directly affected by construction activities, these areas are not considered refugia or movement habitat for the Covered Species.

The Project is expected to cause the permanent loss of 0.35 acre of habitat for the Covered Species, semi-permanent (one or two years) loss of 11.86 acres of habitat for the Covered Species and temporary (less than one year) loss of 5.16 acres of habitat for the Covered Species, for a total of 17.37 acres. 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 include: stress resulting from noise and vibrations from construction, and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.

2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Recirculated Portions of the Draft Environmental Impact Report for the SFPUC Alameda Creek Recapture Project (SCH No.: 2015062072) certified by the City and County of San Francisco on April 28, 2020 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Reinitiation of Formal Consultation on the San Francisco Public Utilities Commission (SFPUC) San Antonio Backup Pipeline and Alameda Creek Water Recapture Project in the Sunol Valley, Alameda County, California (U.S. Army Corps of Engineers (Corps) File Number 2008-00207S) (Biological Opinion No. 08ESMF00-2012-F-0366-1) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.

4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. **General Provisions:**

Designated Representative and Biologist

5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify

CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

5.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of biological monitors (collectively, Designated Biologist) at least 15 days 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 shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

5.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP then the Designated Biologist shall notify the CDFW Representative immediately.

5.4. On-Site Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training (video training given by a biologist with expertise in the Covered Species is acceptable) shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

5.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of *all* personnel who have successfully completed the education program. The Designated Biologists shall maintain construction monitoring binder throughout the construction period. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.

Waste and Erosion Control

5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be removed daily.

5.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

5.8. Erosion Control. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or pond may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.

5.9. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.

Delineation of Habitat

5.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route or site in active construction, Permittee shall clearly delineate the

boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.

5.11. 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.

5.12. Additional Impacts to Habitat. No take beyond the permanent loss of 0.35 acre of habitat for the Covered Species, semi-permanent (one or two years) loss of 11.86 acres of habitat for the Covered Species and temporary (less than one year) loss of 5.16 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.

5.13. Project Access. Project-related personnel shall access the Project Area using existing routes or routes identified the Project Description, and shall not cross Covered Species' habitat outside of, or en route to, the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

Temporary Impacts and Restoration

5.14. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring shall occur by October 31 of the year of the impact and seeding of each temporary impact area shall occur by November 15 of the year of the impact or before winter rains, whichever comes first, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 31 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see ITP Condition of Approval 5.15).

5.15. Vegetation Restoration. Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Permittee shall

submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of restoration activities. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:

5.15.1. Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards:

- Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;

- Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (*i.e.*, original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.

- Permittee shall complete seeding prior to winter rains, but no later than November 15 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is 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.

- No more than 15 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) *California Invasive Plant Inventory Database* (http://www.cal-ipc.org/paf/). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

5.15.2. Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the restored areas for a period of three (3) years or until the

Restoration Plan success criteria have been met, whichever is longer. After the first six months following completion of restoration activities, Permittee shall submit a brief monitoring report (10 pages or less, not including figures) detailing vegetation establishment, percent invasive plant cover, and other relevant observation regarding success of the restoration project to CDFW. If restoration has been successful as outlined in Condition of Approval 5.15.1, Permittee may submit the following report at the end of Year 1 and annually thereafter.

If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 5.15.1, Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication, or any other practice, to achieve these requirements. Permittee shall continue to submit annual restoration reports (see Condition 6.4) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for three (3) years after planting.

5.16. Tracking Impacts. Permittee shall track temporary and permanent impacts and notify CDFW if take authorization is likely to be exceeded in the coming month. Permittee shall submit an appropriately revised Project construction schedule (see Condition 5.20) within seven (7) days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 5.15. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

5.16.1. If CDFW determines in writing that the take authorization for temporary or permanent impacts has been exceeded, Permittee shall cease all new construction activities until appropriate take authorization has been provided if so directed in writing by CDFW.

Invasive Species

5.17. Invasive Plant Species Control- Baseline. Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition 5.19). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.

Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species, and shall be based on an appropriate number monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (http://www.cal-ipc.org/paf/).

5.18. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: http://www.cal-ipc.org/ip/prevention/index.php and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: http://www.protectyourwaters.net/.

5.19. Invasive Plant Species Control Plan. Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition 5.17). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Permittee shall oversee the management of invasives within the Project Area and may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.

Construction

5.20. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.

5.21. Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management

agencies and natural resources agencies, shall be included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.

5.22. 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.

5.23. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

5.24. 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 work areas.

5.25. Artificial Lighting. To the maximum extent feasible, Permittee shall ensure that night-time work is avoided. If night-time work cannot be avoided, it will be limited in extent, duration, and brightness to the maximum extent feasible. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Lighting shall be faced downward and shall only be utilized in the immediate workspace. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

5.26. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.

5.27. 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.

6. Monitoring, Notification and Reporting Provisions:

6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.

6.2. Notification of Non-compliance. The Designated Biologist shall immediately notify CDFW (within 24 hours) 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.

6.3. Compliance Monitoring. The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) 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 other wildlife species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections at a minimum of once per week during periods of inactivity, or daily as long as exclusion fencing is in place unless otherwise approved by CDFW.

6.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.2 and 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure.

Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 5.14. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Restoration Plan described in Condition of Approval 5.15.

Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional

Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

6.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (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.

6.6. CNDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) within 5 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. The Designated Biologist shall submit the observation to notification along with GPS coordinates to CDFW email at Marcia.Grefsrud@wildlife.ca.gov within 24 hours.

6.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

6.8. Notification of Take or Injury. Permittee shall notify the Designated Biologist by the end of the business day 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 (707) 482-2002 and the CDFW Representative at (707) 644-2812 by the end of the business day. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. If the take or injury is a result of Covered Activities then following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.

6.8.1 If a California tiger salamander is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to:

CDFW Bay Delta Region
Attention: Marcia Grefsrud
2825 Cordelia Road, Suite 100
Fairfield, CA 94534

The remaining carcasses shall be delivered to the following address within two calendar days of the discovery:

CDFW Wildlife Investigations Lab
Attention: Deana Clifford
1701 Nimbus Road, Suite D
Rancho Cordova, CA 95670

6.8.2 If an Alameda whipsnake is found recently deceased, a 3 mm portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. The tail tip shall be sent to the following address:

U.S. Geological Survey
Attention: Jonathan Richmond
4165 Spruance Road, Suite 200
San Diego, CA 92101

The remaining carcass shall be sent to Berkeley Natural History Museum at https://mvz.berkeley.edu/deadanimal/ or California Academy of Sciences, at Herpetology, (415) 379-5292, or at LScheinberg@calacademy.org.

7. Take Minimization Measures:

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

7.1. Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 20 miles per hour when traveling through the Project area.

7.2. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is found, it may be relocated as described in Condition of Approval 7.19.

7.3. Use of Rodenticide and Poison. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.

7.4. Dewatering. Sediment-laden water from dewatering shall be held in a settling container or discharged in an upland location where it will not drain directly into a stream or into small mammal burrows.

7.5. Vehicle checks. All contractors, their employees, and agency personnel shall check for the presence of Covered Species under and near stationary vehicles prior to operating the vehicles. If a Covered Species is discovered, the Designated Biologist shall have the authority to halt construction until the Covered Species leaves the area of its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area as required by Condition of Approval 7.19 and 7.27.

7.6. Covered Species Handling and Injury. Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured Covered Species is found during the Project term, the individual shall be evaluated by the Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:

7.6.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Condition of Approval 7.19).

7.6.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and U.S. Fish and Wildlife Service (USFWS). Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.8.

California Tiger Salamander

7.7. Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving excavation and heavy equipment use to between April 30 and October 31 until the expiration of this ITP.

7.8. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 7.7 unless no or low rainfall conditions persist (refer to Condition of Approval 7.9). Permittee shall submit notices of work past October 31 to the CDFW Regional Representative at least 14 days prior to the expiration of the seasonal work window. Permittee shall submit a description of all Covered Activities conducted past October 31 to the CDFW Regional Representative on a weekly basis. If work is expected to continue, Permittee shall submit a 7-day weather forecast to the CDFW Regional Representative for the following week. If such work past October 31 results in areas previously considered temporarily-disturbed (for example, staging areas) to be restored past October 31 of the year of the impact,

then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 5.13) and an amendment to the ITP may be required. If work during dry conditions is extended past October 31, the following conditions shall apply:

7.8.1. Non-linear work sites located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads. The Designated Biologist shall survey the fence line for the Covered Species during evening or night-time low rainfall events.

7.8.2. During the adult California tiger salamander migration/active season from November 1 to June 15, the Project site shall not be accessed prior to 30 minutes before sunrise and no work beyond 30 minutes before sunset unless the Designated Biologist surveys for Covered Species prior to equipment moving or ground disturbance and unless otherwise approved in writing by CDFW.

7.8.3. All steep-walled holes or trenches more than 6 inches deep shall be covered overnight with boards or metal plates placed flush to the ground.

7.8.4. Erosion control such as straw wattles or silt fencing shall not be placed where they create a barrier to Covered Species movement between upland and aquatic habitat.

If Permittee requests ground-disturbing work to be conducted past October 31 when rainfall has exceeded amounts described in Condition of Approval 7.9 then an Amendment to the ITP shall be required.

7.9. Dry Season Work Restriction. During the dry season of April 30 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 60 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.

7.10. Daily Work Window. The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California

tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. During the adult California tiger salamander migration/active season from November 1 to June 15, the Project site shall not be accessed prior to 30 minutes before sunrise and no work beyond 30 minutes before sunset unless the Designated Biologist surveys for Covered Species prior to equipment moving or ground disturbance and unless otherwise approved in writing by CDFW. Except when necessary for construction, or driver/ pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

7.11. Pre-construction Survey, California Tiger Salamander. Prior to initiating Covered Activities, the Designated Biologist shall perform pre-construction surveys within the boundaries of the Project Area plus a 50-foot buffer zone, where feasible, around the construction area. The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as soils deposition areas, road construction or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for California tiger salamander during initial site grading. Grading activities shall be done in a manner that allows Designated Biologists to safely survey the area for California tiger salamander. A Designated Biologist shall survey the open areas adjacent to ongoing grading or scraping as the footprint expands. Multiple biologists may be necessary to survey the area appropriately. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for California tiger salamander. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 7.12). If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.19).

7.12. Exclusion Fencing Near Aquatic Features. To prevent the California tiger salamander from entering the construction area, exclusion fencing or drift-fence with associated pitfall traps or coverboards shall be constructed in strategic locations and in and around all work areas within 500 feet of all aquatic features. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to the start of Covered Activities and shall be placed within 10 feet of

the edge of work areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily before 0900 each day to ensure that no California tiger salamanders are trapped against the fencing, where they could desiccate or be predated upon. If the fence barrier is left in place from November 1 to June 15, the Designated Biologist shall also inspect the fence daily before 0900 each day. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects.

The barrier shall remain in place until the Permittee completes all Covered Activities and all construction equipment has been removed from the site. The Designated Biologist shall relocate any California tiger salamander found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.

Permittee shall also ensure that silt fencing and/or other erosion control methods are used to prevent sediment or other debris from passing into California tiger salamander aquatic habitat that is within 500 feet of Project construction activities.

7.13. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 7.11) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.

7.14. Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads, electrical collection lines, or turbine pads with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.

7.15. Trenching and Mowing. Prior to trenching, Permittee shall mow vegetation along the fence line to the width necessary to accommodate the trenching equipment and a walking buffer, to facilitate locating and avoiding burrows and California tiger salamanders that may be present within the Project area. The Designated Biologist will perform clearance surveys (refer to Condition of Approval 7.12) within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till vegetation.

7.16. Open Trenches. To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes,

sumps and trenches for Covered Species no later than 0900 each day for trapped animals. If a California tiger salamander is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Condition of Approval 7.19 and 7.27) prior to the start of work activities at that site. At the close of each working day, the Designated Biologist shall ensure all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run: rise). Before Permittee fills trenches or holes, the Designated Biologist shall thoroughly inspect them for trapped California tiger salamander. If at any time a trapped California tiger salamander is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.

7.17. Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.

7.18. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential California tiger salamander breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq*. Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.

7.19. Relocation[5] of California Tiger Salamander. Permittee shall develop a Relocation Plan for California tiger salamander and submit it to CDFW for approval prior to ground-disturbing activities occurring within 1.3 miles of known California tiger salamander breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any California tiger salamander individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 6.8). The Designated Biologist shall contact CDFW's Regional Representative within one working day of any relocation incidents. Incidents that do

[5] Relocation refers to the transport and release of a plant or animal immediately outside of an area of disturbance. The distance that the plant or animal is to be moved is limited to the minimum distance needed to promote the safety of the individual. Relocation of species beyond the immediate vicinity of capture (i.e., from one site to another) is not authorized as doing so could increase intra-species competition, attract predators, or spread disease.

not result in mortality shall be reported in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the California tiger salamander being discovered and confined; the location where the California tiger salamander was relocated; and photographs of the incident. All locations shall be geo-referenced and detailed in text.

7.20. Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species.[6] All equipment parts that may come into contact with the water, such as vehicle treads, buckets, *etc*., shall be decontaminated. Repeat decontamination is required only if the equipment is removed from the site, used within a different aquatic feature, and returned to the Project Area. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering aquatic features. Workers shall also decontaminate waders, boots, and other clothing that comes in direct contact with the water.

7.21. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. CDFW. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition 6.8). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.

7.22. Invasive Species. Any bullfrogs (*Lithobates catesbeianus*) encountered during construction or monitoring shall be permanently removed from the wild. Pursuant to Fish and Game Code, section 6854, it is unlawful to take bullfrogs using firearms of any caliber or type. BB or pellet guns are prohibited. CDFW may issue a permit to take and dispose of frogs under such limitations as the commission may prescribe (Fish and Game Code, § 6854). Permittee may not introduce predatory fishes (including but not limited to largemouth bass, redear sunfish, bluegill, catfish, mosquitofish, and fathead minnows) or amphibians (including but not limited to bullfrogs, barred tiger salamanders, and Arizona tiger salamanders).

[6] Refer to: U.S. Fish and Wildlife Service, August 2005. *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog,* Appendix B - Recommended Equipment Decontamination Procedures.

Alameda Whipsnake Specific Measures

7.23. Daily Surveys. The Designated Biologist shall conduct walking, pre-construction surveys for Alameda whipsnakes prior to the initiation of Covered Activities each day including excavated areas. In addition, the Designated Biologist shall walk in front of the earthmoving equipment while Covered Activities are being conducted, if it can be done safely. If a Covered Species is discovered, the Designated Biologist shall have the authority to halt construction until the Covered Species leaves the area of its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area (see Condition of Approval 7.27).

7.24. Access Roads. The Designated Biologist shall inspect the entire access route for Covered Species each day when Covered Activities are occurring between March 15 and October 31 of each year. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise) and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Covered Species on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.

7.25. Vegetation Marked for Protection. Vegetation shall be removed prior to grading. Prior to clearing and grubbing operations, the Designated Biologist shall clearly mark vegetation within the Project Area that shall be avoided. Vegetation outside the Project Area shall not be removed.

7.26. Vegetation Removal Methods. Where possible hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.

7.27. Alameda Whipsnake Relocation. Permittee shall develop a Relocation Plan for Alameda whipsnake. Permittee shall quantify the amount, relative location, and quality of suitable habitat including and potential barriers or hazards to movement.

8. Habitat Management Land Acquisition and Restoration:

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

To meet this requirement, the Permittee shall either purchase 29.93 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 29.93 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below.

Permittee shall provide compensatory habitat consistent with the conservation priorities and mitigation ratios described in the East Alameda County Conservation Strategy (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW. Therefore, the amount of HM lands required may be adjusted by CDFW to reflect any corrections made to mitigation ratios based on EACCS habitat scoring of the mitigation site.

Additional credits may be required if the CDFW-approved conservation bank site is outside the EACCS CTS North mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.

Purchase of Covered Species credits at a CDFW-approved conservation bank must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. If Permittee is unable to purchase credits within allowed timeframe CDFW may require an Amendment to this ITP. If a CDFW-approved conservation bank with Covered Species credits is not available, Permittee shall fulfill the mitigation obligations of this ITP with permanent protection and perpetual management of compensatory habitat through land acquisition.

Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site 17.02 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.6 below.

8.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at $16,000.00/acre for 29.93 acres: **$478,880.00**. Land

acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

8.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at **$10,000.00**;

8.1.3. Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at **$8,829.35**;

8.1.4. Long-term management funding as described in Condition of Approval 8.4 below, estimated at $3,000.00/acre for 29.93 acres: **$89,790.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

8.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **$3,000.00**.

8.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at $4,500.00/acre for 17.02 acres: **$76,590.00**.

8.2. Covered Species Credits. Permittee shall purchase 29.93 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

OR:

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

8.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its

sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

8.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 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; HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the California tiger salamander; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the California tiger salamander;

8.3.3. 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;

8.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;

8.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://wildlife.ca.gov/Conservation/Planning/Banking); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

8.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management, pond repair and maintenance. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

8.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government

Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

8.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

8.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.

8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

8.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

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

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

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

8.6. Habitat Restoration. Permittee shall restore on-site the 17.02 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 17.02 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.

9. Performance Security

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

9.1. Security Amount. The Security shall be in the amount of **$667,089.35**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.

9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

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

9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.

9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the

Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

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

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

Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2017-019-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Gregg Erickson, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
AskBDR@wildlife.ca.gov

and a copy to:

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

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

Marcia Grefsrud, Environmental Scientist
California Department of Fish and Wildlife - Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 644-2812
Marcia.Grefsrud@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, City and County of San Francisco. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Recirculated Portions of the Draft Environmental Impact Report for the SFPUC Alameda Creek

Recapture Project (SCH No.: 2015062072) dated December 4, 2019 that the City and County of San Francisco certified for Alameda Creek Recapture Project on date April 28, 2020. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, the Draft Environmental Impact Report for the SFPUC Alameda Creek Recapture Project and the Recirculated Portions of the Draft Environmental Impact Report for the SFPUC Alameda Creek Recapture Project (SCH No.: 2015062072), the results of site visits, meetings, consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

(1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;

(2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 29.93 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
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Restraint and Handling of Live Amphibians
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 2/12/2021 **.**

DocuSigned by:
Gregg Erickson
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Gregg Erickson, Regional Manager
Bay Delta Region

ACKNOWLEDGMENT

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

DocuSigned by:
By: Susan Hou
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Date: 2/19/2021

Printed Name: Susan Hou

Title: Regional Project Manager