



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

(707) 428-2002

www.wildlife.ca.gov

GAVIN NEWSOM, Governor

CHARLTON H. BONHAM, Director



July 29, 2021

Mr. Toby Perry, Project Manager

East Bay Regional Park District

2950 Peralta Oaks Court

Oakland, CA 94605

TPerry@ebparks.org

Subject: Incidental Take Permit Application for the Pleasanton Ridge Regional Park
Access Project, 2081-2020-012-03, Alameda County

Dear Mr. Perry:

Enclosed you will find an electronic copy of the Incidental Take Permit for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully and sign the acknowledgement on the permit **no later than 30 days from CDFW signature** and prior to initiation of ground-disturbing activities. You may return an electronic copy of the permit with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Alternatively, you may return a hard copy of the permit via mail to:

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

You are advised to keep the permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The permit will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Marcia Grefsrud, Environmental Scientist, at (707) 644-2812 or Marcia.Grefsrud@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stacy Sherman

Stacy Sherman

Acting Regional Manager

Bay Delta Region



**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. 2081-2020-012-03

PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

Authority:

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

Permittee:	East Bay Regional Park District
Principal Officer:	Toby Perry, Project Manager
Contact Person:	Toby Perry, (510) 544-2317, TPerry@ebparks.org
Mailing Address:	2950 Peralta Oaks Court, Oakland, California 94605

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, 2026**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.8 of this ITP.

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

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

Project Location:

The Pleasanton Ridge Regional Park Access Project (Project) is located within the Pleasanton Ridge Regional Park, located within Alameda County, California. The northern extent of the Project site is located at approximately 37.691144°N, 121.952434°W, and the southern extent is located at approximately 37.594313°N, 121.895988°W. (Figure 1). The Project site is located within the Dublin and Niles U.S. Geological Survey (USGS) 7.5' topographic quadrangles (quads) southeast of the intersection of Highways 580 and 680, west and southwest of the City of Pleasanton, and north of Highway 84. Parcels adjacent to the site include undeveloped grassland and woodland habitats, with the only developed boundaries occurring on the easternmost extent of the Project site where the Garms Staging Area portion of the Project will be constructed immediately adjacent to Foothill Road, and the southernmost extent of the Project site where the Tyler Ranch Staging Area will be constructed immediately adjacent to the southern extent of Foothill Road with Highway 84 just beyond. The Project site includes 14.67 discontinuous acres including: two staging areas, an access road, 17 stream/swale crossings and two free-span bridges, 8.7 miles of natural substrate trails, and five mitigation/enhancement areas (Figures 1 and 2).

Project Description:

The Project includes construction of a northern and southern staging area (Garms Staging Area and Tyler Ranch Staging Area), an access road connecting the Garms Staging Area to an existing road, and 17 stream/swale crossings and two free-span bridges that will occur along the span of approximately 8.7 miles of new trails to be constructed.

The 17 stream/swale crossings and two free-span bridges are required to complete the trail system and to provide construction access to adjacent uplands within a trail network to be constructed as part of the Project.

Staging Areas

The 2.25-acre Garms Staging Area includes construction of an asphalt parking lot with approximately 75 parking stalls, a natural-surface picnic area, restrooms (vault toilets), cement sidewalks, landscaping, stormwater treatment areas, and ancillary utilities and infrastructure. Offsite impacts include road widening of approximately 525 linear-feet of Foothill Road to accommodate a bike lane and a turning lane for entrance to and exit from the staging area. In addition, an approximately 0.38-mile access road will be constructed connecting the Garms Staging Area to an existing in-park road. The access road will be 12-foot-wide and constructed with a fairly flat grade and an aggregate base substrate.

The 2.6-acre Tyler Ranch Staging Area includes a compacted gravel parking lot with approximately 78 parking spaces and equestrian staging for three pick-ups with horse trailers, a picnic area, restrooms (vault toilets), cement sidewalks, landscaping, stormwater treatment areas, and ancillary utilities and infrastructure. The parking lot will be partially paved.

The staging areas will be constructed using different equipment and methods than the stream/swale crossings and trails portions of the Project. The staging areas will be constructed using standard construction equipment including excavators, back-hoes, bulldozers, scrapers, compactors, augers, water trucks, concrete trucks, and assorted other hand tools and professional grade equipment.

Prior to ground disturbing activities, the staging area footprints will be cleared and grubbed. The staging areas will then be excavated to meet final grades. Small portions of the staging areas will be over-excavated to accommodate the installation of buried utilities and vault toilets. Existing paved areas within the staging area footprints will be cleared, and the pavement will be ground up, placed, and compacted throughout the aggregate base parking areas, and then covered with imported aggregate base, which will then be compacted for final grade and compaction rates.

Due to the hillside location of the Garms Staging Area, in order to achieve Project grades, the upper elevations of the staging area footprint will be excavated until final grade has been met, with excess soils deposited on the lower elevations of the Project footprint. Deposited soils will be compacted in 12-inch lifts until final grade has been met. Prior to building up the lower elevations of the staging area, a keyway will be excavated at the base of the hillslope and all surfaces to receive fill will be scarified.

Garms Staging Area Access Road

Prior to ground disturbing activities, the access road alignment will be cleared of all vegetation. Disturbance to the vegetation will be limited to the width of the final access road as well as a buffer as wide as two feet on either side of the road alignment to provide for proper (i.e., safe and stable) slope construction both uphill and downhill of the trail. The access road will be constructed using mini-excavators and a mini-bulldozer to cut into the hillside.

Trails

Prior to ground disturbing activities, the trail alignment will be cleared of all vegetation using hand-held tools (e.g., gas powered line trimmer, chainsaw, hoe, rake, trowel, shovel, and/or grazing) so that groundcover vegetation is no taller than 4 inches. Trails through the woodland and scrub habitats will be aligned to avoid tree/shrub removal and/or substantial pruning to the maximum extent feasible. Disturbance to the vegetation will be limited to the width of the final trail as well as a buffer as wide as two feet on either side of the trail alignment to provide for proper (i.e., safe and stable) slope construction both uphill and downhill of the trail (herein referred to as the side-slope buffers), and to allow for trail users to pass one another safely.

The narrow trail portions will be constructed largely using hand tools or mini-excavators for minor excavation work to cut 4-foot- wide out-slope trails. The Congdon's Loop Trail will be constructed using mini-excavators and a mini-bulldozer to cut into the hillside. This 0.54-mile natural-surface trail will be 6 feet wide.

Educational and wayfinding signs will be installed, as appropriate, at intervals along the trails to denote location, and/or educate the public on applicable site information with regard to sensitive habitat and/or species.

Low-Water Crossings

To reduce impacts to sensitive habitats, provide channel stability, and minimize channel bed erosion, new trails that transect streams and swales will include installation of armoring within the low-water crossings. These low-water crossings will be constructed of natural channel rock or pre-cast open-cell interlocking blocks, installed at the existing topographic low areas within the stream/swale and areas that may flow or pond during wet periods, except where outsloping and shaping of the trail profile will provide needed drainage. The type of crossing installed will be determined onsite, with a preference for natural rock, where feasible.

Construction of low-water crossings will include the excavation of the armoring footprint (e.g., 6-foot-wide and extending the width of the stream/swale), uniformly placing rocks/blocks throughout the excavated footprint with at least three points touching other rocks/blocks and backfilling the excavated footprint with crushed rock and native soils.

Free-Span Bridges

The Tehan Trail transects a deeply incised stream that cannot be crossed without the construction of a free-span bridge. Bridge construction will remain outside of the stream and above the top of bank (TOB), excavation for the bridge abutments will result in ground disturbance of approximately 100 square feet (and approximately 10 feet deep) on each end of the bridge footprint for concrete abutment construction. Upon completion of abutment construction, an approximately 80-foot-long, wood, steel, or fiberglass free-span bridge will be secured on top of the abutments (likely to be transported by helicopter). As the bridge footprint will remain outside of all waters and above TOB, temporary dewatering and/or re-routing of stream flows will not be required.

The Mariposa Trail transects a minimally incised stream (ES8) downstream from Turtle Pond (P1) – this crossing will occur above the pond spillway. The 20-foot-long x 6 foot wide free span bridge, will rest on two 8 foot x 4 foot footings. Bridge materials will include geocell with aggregate fill footings, cedar or redwood dimensional lumber or galvanized steel as sill and stringers, with Douglas fir decking and bull rails. Bridge construction will remain within the existing Project footprint.

Revegetation

Areas adjacent to the staging areas, constructed trails, and low-water crossings will be revegetated, as appropriate, by either 1) scarifying, seeding, and mulching using certified weed-free products; 2) planting native vegetation, transplanted from the vicinity, or seeded with native species found in the area; or 3) applying top soil (strippings) accumulated from grading activities over areas temporarily disturbed by construction activities to encourage

recovery of the natural habitat. Where the use of strippings is applicable, the strippings resulting from clearing and grubbing the construction site will be stockpiled at the start of construction and covered or controlled using best management practices (e.g., silt fence, wattles, fiber rolls – absent of plastic netting and certified as free of noxious weeds) for replacement at the end of construction, thereby minimizing the imprint on adjacent areas.

Revegetated areas will be monitored post-construction to ensure that vegetation and hydrology remain comparable to pre-construction conditions at these temporary impact locations.

Post Construction

Once the trail is complete, Permittee may use a small dozer to redefine the areas of the bench after the first year (grasses tend to come back quickly after the first cut). This work may consist of scraping vegetation off of the 4-foot-wide trail tread and clearing any slough that has come down from the backslope onto the trail during the winter rains.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³
2. Alameda whipsnake (<i>Masticophis lateralis euryxanthus</i>) also known as Alameda striped racer (<i>Coluber lateralis euryxanthus</i>)	Threatened ⁴

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include clearing and grubbing, trenching, excavation, weed whacking, 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

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

⁴See *Id.*, subd. (b)(4)(D).

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: the new staging areas, access roads, trails and stream crossings within the Pleasanton Ridge Regional Park (collectively, the Project Area).

The Project is expected to cause the permanent loss of 5.31 acres of habitat for the Covered Species from staging areas and roads, and the conversion of 8.57 acres of non-native grassland and oak-bay woodland habitat for the Covered Species to lower quality (degraded) dispersal habitat from construction, maintenance, and use of trails. 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 tunneling 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, aircraft (e.g. helicopter) 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 Pleasanton Ridge Regional Park Land Use Plan Initial Study/Mitigated Negative Declaration (SCH No.: 2012062006) adopted by East Bay Regional Park District on July 17, 2012 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration (LSA) Agreement (Notification No. 1600-2020-0168-R3) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion No. 08ESMF00-2020-TA-1033 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.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

6. General Provisions:

Designated Representative and Biologist

- 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the biological monitor(s) (collectively, "Designated Biologist") at least 30 days before starting Covered Activities. Permittee shall ensure that all Designated Biologists are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before

starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that 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.
- 6.3.1. 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.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided 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.
- 6.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.

Waste and Erosion Control

- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be removed and disposed of daily.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the

Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

- 6.8. Erosion Control. 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.
- 6.9. 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

- 6.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds on dirt roads do not exceed 15 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.

- 6.13. Access Roads. If burrows are present, as determined by the Designated Biologist access on unpaved roads shall be only by rubber tracked or lightweight rubber tired vehicles to reduce collapse of burrows. Access roads shall be clearly marked and shall avoid sensitive plants.
- 6.14. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP. Excess spoils shall be legally disposed of at a landfill unless otherwise described in this ITP.
- 6.15. 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. Refueling of equipment and vehicles will not occur within 100 feet of surface waters. All hazardous materials shall be properly stored and labeled according to the manufacturer and shall not be kept closer than 100 feet from surface waters.
- 6.16. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project sites and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.17. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.

- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. During trail construction only, the Designated Biologist shall be on site during vegetation removal and initial ground disturbing activities. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP.
- 7.4. Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 8.4.
- 7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.3 and 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.6. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information

Incidental Take Permit
No. 2081-2020-012-03

EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 7.7. CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all confirmed observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.9. Notification of Take or Injury. Permittee shall 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.
- 7.9.1. 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

- 7.9.2. 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.

- 7.10. Additional Impacts to Habitat. No take beyond the permanent loss of 5.31 acres of habitat for the Covered Species and conversion of 8.57 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.

- 7.10.1. Tracking Impacts. Permittee shall track all impacts and notify CDFW if take authorization is likely to be exceeded in the coming month. If CDFW determines in writing that the take authorization for conversion 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

- 7.11. 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/>.
- 7.12. 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 subsequently restored. 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

- 7.13. 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.
- 7.14. 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.

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

Incidental Take Permit
No. 2081-2020-012-03
EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

- 8.1. 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.
- 8.2. 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 Conditions of Approval 8.17 and 8.18.
- 8.3. 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.
- 8.4. Temporary Covered Species Barrier. Prior to commencing any other Covered Activities Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the staging areas within the Project Area. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The Designated Biologist, (or other trained staff during periods described in Condition of Approval 7.4), shall inspect the barrier daily, and during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards or straw wattles, along the exclusion fence on both sides of the fence. Permittee shall submit to CDFW for approval, the location and design of the barrier and refuge opportunities no less than 30 days prior to the proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per the Relocation Plan described in Condition of Approval 8.17.

California tiger salamander specific measures

- 8.5. 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.
- 8.6. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 8.5 unless no or low rainfall conditions persist (refer to Condition of Approval 8.7). 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 7.15) and an amendment to the ITP may be required. If work during dry conditions is extended past October 31, the following conditions shall apply:

- 8.6.1. 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.
- 8.6.2. 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.
- 8.6.3. 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.
- 8.6.4. 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 8.7 then an Amendment to the ITP shall be required.

- 8.7. 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.
- 8.8. 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.

- 8.9. 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 8.4). 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 8.17 and 8.18).
- 8.10. 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 lentic 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 the U.S. Fish and Wildlife Service (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.

- 8.11. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.17 and 8.19) 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.
- 8.12. Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads and trails 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.
- 8.13. 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 8.9 and 8.19) within the area that the Permittee will clear immediately prior to vegetation removal. Permittee shall not disk or till vegetation.
- 8.14. 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 8.17 and 8.18) 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.

- 8.15. 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.
- 8.16. 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.
- 8.17. California Tiger Salamander Relocation Plan. The Designated Biologist(s) shall prepare a California Tiger Salamander Relocation Plan (Relocation Plan). The Relocation Plan shall include, but not be limited to, an identification of the survey and hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.
- 8.18. California Tiger Salamander Relocation. The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.

- 8.19. Pre-Activity Surveys. The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during grading, excavation, or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g., mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 8.17 and 8.18 and monitor it until it is determined that it is not imperiled by predators or other dangers.
- 8.20. Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured California tiger salamander 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:
- a) If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 8.17 and 8.18.
 - b) If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.9.
- 8.21. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. 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 Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 8.20).

Alameda whipsnake specific measures

- 8.22. 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/dewatered 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 an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake 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.
- 8.23. 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 Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.
- 8.24. Vegetation Marked for Protection. Permittee shall ensure vegetation is 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.
- 8.25. Vegetation Removal Methods. Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.

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

To meet this requirement, the Permittee shall either purchase 33.07 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 33.07 acres of Habitat Management

(HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 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.

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

9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$16,000.00/acre for 33.07 acres: **\$529,120.00**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$10,000.00**;

9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$8,829.35**;

9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$3,000.00/acre for 33.07 acres: **\$99,210.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.5. Related transaction fees including but+ not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in [Condition of Approval 9.5], estimated at **\$3,000.00**.

9.2. Covered Species Credits. Permittee shall purchase 33.07 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:

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

9.3.1. 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);

9.3.2. 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;

- 9.3.3. 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;
- 9.3.4. 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.
- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. 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,

Incidental Take Permit
No. 2081-2020-012-03

EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

continuing trash removal, site monitoring, and vegetation and invasive species management, and pond management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 9.4. Funding for Perpetual Management of HM Lands. CDFW and Permittee entered into a Mitigation Funding Agreement (MFA), dated April 28, 2020, which is incorporated herein by reference, that ensures long-term funding for the perpetual management of the HM lands through a mechanism other than a long-term management endowment. Funding for perpetual management of compensatory habitat, pursuant to the MFA must be completed before starting Covered Activities, or within 18 months of the start of Covered Activities if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

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 long-term funding pursuant to the MFA.

- 9.4.1. Perpetual Management Funding Agreement. In recognition of Permittee's statutorily defined mission, staff expertise, and statutory authority and constraints, CDFW has determined that perpetual management funding for the Project may be accomplished by a mechanism other than a long-term management endowment. CDFW and Permittee have entered into the MFA, which sets forth the terms and conditions under which Permittee shall ensure funding for the long-term management of the HM lands. The MFA, at a minimum:

- 9.4.1.1. Requires Permittee to fund the full annual costs of managing the HM lands from Permittee's annual budget;
- 9.4.1.2. Requires Permittee to fund and maintain a perpetual security endowment (the Reserve Fund) equal to the cost of five (5) years of management funding for the HM lands for the Project, as calculated in the PAR required by Condition of Approval 9.4.3;
- 9.4.1.3. Allows CDFW unilaterally to call upon the security endowment, after written notice and a reasonable opportunity to cure, in the event of non-performance of any management obligations by Permittee;

9.4.1.4. Requires Permittee to replenish the security endowment in the event CDFW calls on those funds pursuant to Condition of Approval 9.4.1.3; and

9.4.1.5. Requires Permittee to provide a full endowment fund pursuant to Condition of Approval 9.4.2 within ninety (90) days of receipt of written notice from CDFW of a material breach of the MFA by Permittee.

9.4.2. Endowment Fund. This section 9.4.2 applies only in the event CDFW provides notice of MFA termination pursuant to Condition of Approval 9.4.1.5 above and Section 7 of the MFA. A long-term management fund (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 required by Condition of Approval 9.3.5. 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. In the event that funding is not provided through a Perpetual Funding Agreement in accordance with Condition of Approval 9.4.1 above, such activities shall be funded through the Endowment, and the following requirements shall apply.

9.4.2.1. 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

Incidental Take Permit
No. 2081-2020-012-03

EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

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).;

- 9.4.2.2. 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.
- 9.4.3. Calculate the Long-Term Management Costs for the Reserve Fund or Endowment. 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.
 - 9.4.3.1. 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.
 - 9.4.3.2. Endowment Buffers/Assumptions. Permittee shall include in the PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
 - 9.4.3.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
 - 9.4.3.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
 - 9.4.3.2.3. 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.

- 9.5. 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.

10. Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Security shall be based on the full cost of mitigation pursuant to Condition of Approval 9.1. With regard to the requirement for long term management funding for the HM lands, Permittee shall either deposit into the Reserve Fund five years of perpetual management funding as required by the MFA prior to commencing Covered Activities or provide Security in the full amount required by Condition of Approval 9.4.1. If Permittee provides Security for the Endowment, that portion of the Security shall be released when Permittee deposits into the Reserve Fund five years of perpetual management funding as required by the MFA. Permittee shall provide Security as follows:

- 10.1. Security Amount. The Security shall be in the amount of **\$650,159.35**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. 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.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after 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 (2081-2020-012-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Stacy Sherman, Acting Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road Suite 100
Fairfield, CA 94534
R3CESA@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
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 644-2812, Marcia.Grefsrud@wildlife.ca.gov

Incidental Take Permit
No. 2081-2020-012-03
EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, East Bay Regional Park District. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Pleasanton Ridge Regional Park Land Use Plan Initial Study/Mitigated Negative Declaration (SCH No.: 2012062006) dated July 2012 that the East Bay Regional Park District adopted for Pleasanton Ridge Regional Park Land Use Plan on July 17, 2012. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Pleasanton Ridge Regional Park Land Use Plan Initial Study/Mitigated Negative Declaration, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate

Incidental Take Permit
No. 2081-2020-012-03
EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 33.07 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 Site and Vicinity
FIGURE 2	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

Incidental Take Permit
No. 2081-2020-012-03
EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 7/29/2021.

DocuSigned by:

Stacy Sherman

602D021D81CA4E7...

Stacy Sherman, Acting 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:

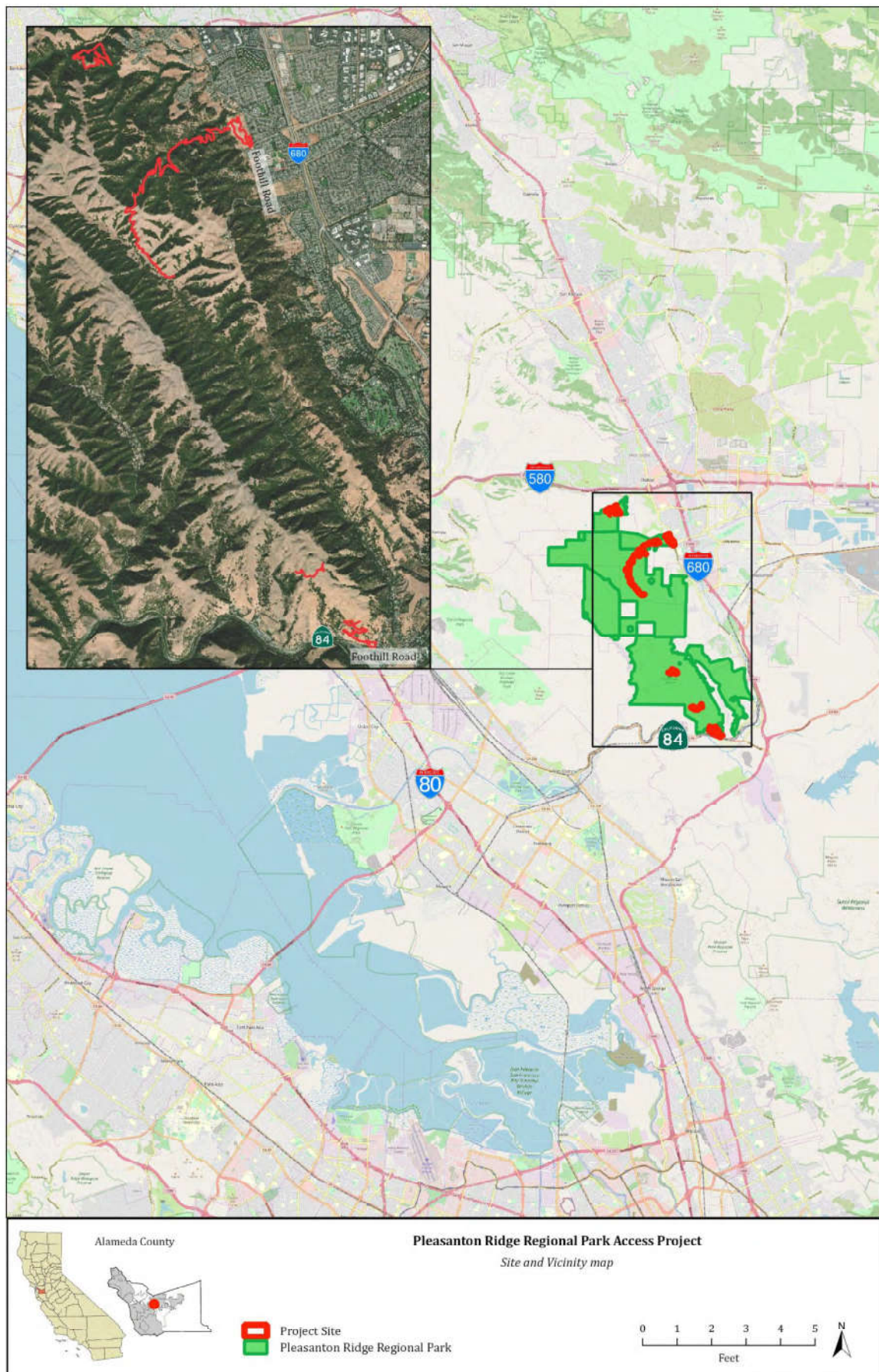
Toby Perry

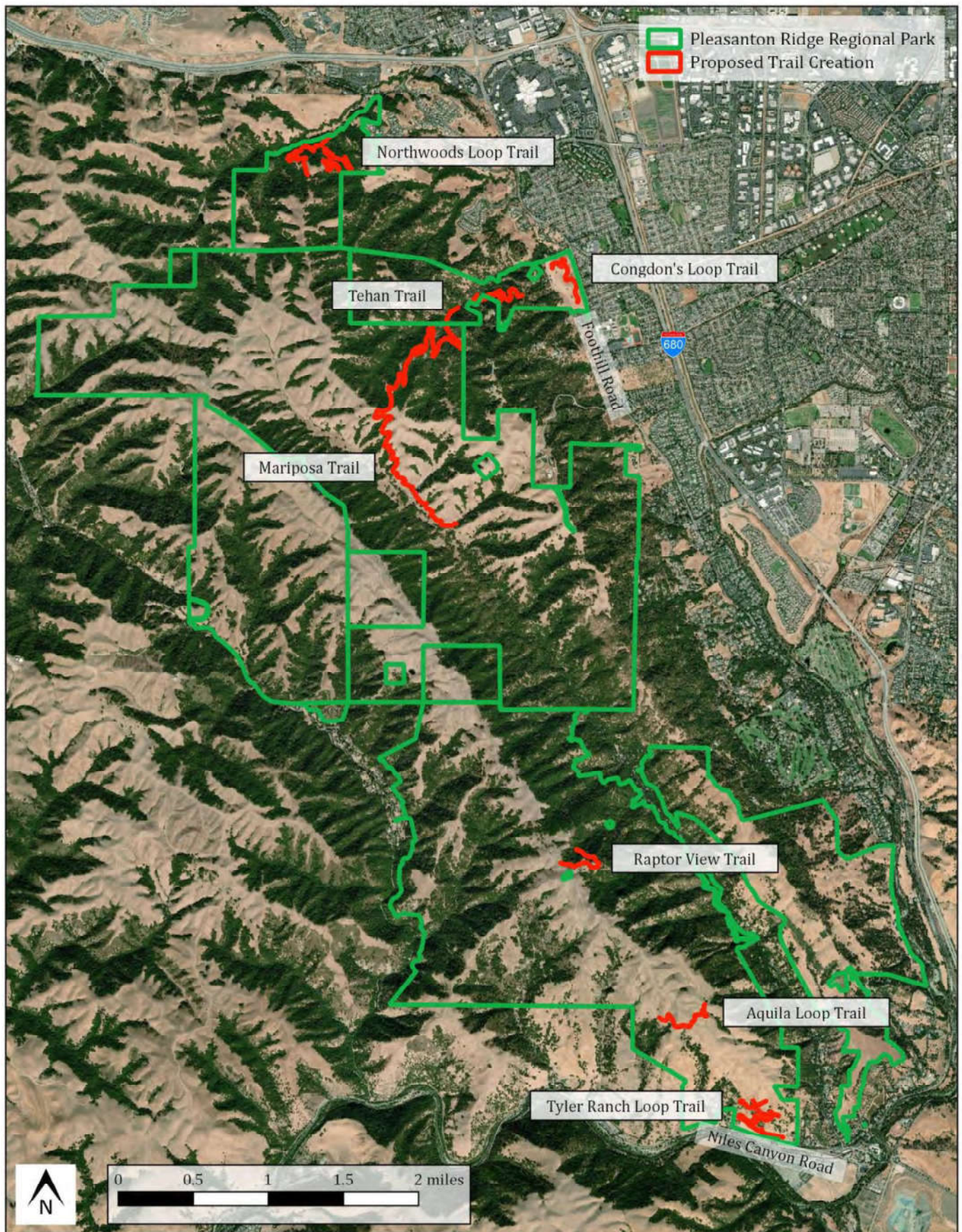
600375DBF0074FF...

By: _____ Date: 8/17/2021

Printed Name: Toby Perry Title: Project Manager

Incidental Take Permit
No. 2081-2020-012-03
EAST BAY REGIONAL PARK DISTRICT
PLEASANTON RIDGE REGIONAL PARK ACCESS PROJECT





Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT NO. 2081-2020-012-03**

PERMITTEE: East Bay Regional Park District

PROJECT: Pleasanton Ridge Regional Park Access Project

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	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.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the biological monitor(s) (collectively, "Designated Biologist") at least 30 days before starting Covered Activities. Permittee shall ensure that all Designated Biologists are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	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.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be removed and disposed of daily.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	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	ITP Condition # 6.8	Before commencing ground- or vegetation-	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.		disturbing activities/ Entire Project		
7	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.	ITP Condition # 6.9	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
8	Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 6.10	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
9	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.11	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
10	Access Roads. If burrows are present, as determined by the Designated Biologist access on unpaved roads shall be only by rubber tracked or lightweight rubber tired vehicles to reduce collapse of burrows. Access roads shall be clearly marked and shall avoid sensitive plants.	ITP Condition # 6.13	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
11	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project sites and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 6.16	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
12	Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation- disturbing activities	Permittee	
13	CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all confirmed observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.7	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
14	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.	ITP Condition # 7.13	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	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.	ITP Condition # 7.14	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
16	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.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
17	Temporary Covered Species Barrier. Prior to commencing any other Covered Activities Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the staging areas within the Project Area. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The Designated Biologist, (or other trained staff during periods described in Condition of Approval 7.4), shall inspect the barrier daily, and during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards or straw wattles, along the exclusion fence on both sides of the fence. Permittee shall submit to CDFW for approval, the location and design of the barrier and refuge opportunities no less than 30 days prior to the proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per the Relocation Plan described in Condition of Approval 8.17.	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
18	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 8.4). 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 8.17 and 8.18).	ITP Condition # 8.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p>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 lentic 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 the U.S. Fish and Wildlife Service (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.</p> <p>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.</p> <p>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.</p>	ITP Condition # 8.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
20	Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.17 and 8.19) 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.	ITP Condition # 8.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
21	Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads and trails 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.	ITP Condition # 8.12	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
22	California Tiger Salamander Relocation Plan. The Designated Biologist(s) shall prepare a California Tiger Salamander Relocation Plan (Relocation Plan). The Relocation Plan shall include, but not be limited to, an identification of the survey and hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until	ITP Condition # 8.17	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.				
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/dewatered 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 an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake 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.	ITP Condition # 8.22	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
24	<p>Permittee shall either purchase 33.07 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 33.07 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	ITP Condition # 9.0	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	<p>Covered Species Credits. Permittee shall purchase 33.07 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.</p> <p>OR</p>	ITP Condition # 9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	<p>Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p>Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);</p> <p>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;</p> <p>HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;</p>	ITP Conditions # 9.3, 9.3.1-9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
27	<p>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.</p> <p>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</p>	ITP Condition # 9.3.4-9.3.6	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>approval (see https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;</p> <p>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, and pond management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>				
28	<p>Funding for Perpetual Management of HM Lands. CDFW and Permittee entered into a Mitigation Funding Agreement (MFA), dated April 28, 2020, which is incorporated herein by reference, that ensures long-term funding for the perpetual management of the HM lands through a mechanism other than a long-term management endowment. Funding for perpetual management of compensatory habitat, pursuant to the MFA must be completed before starting Covered Activities, or within 18 months of the start of Covered Activities if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.</p> <p>The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing long-term funding pursuant to the MFA.</p>	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	<p>Perpetual Management Funding Agreement. In recognition of Permittee's statutorily defined mission, staff expertise, and statutory authority and constraints, CDFW has determined that perpetual management funding for the Project may be accomplished by a mechanism other than a long-term management endowment. CDFW and Permittee have entered into the MFA, which sets forth the terms and conditions under which Permittee shall ensure funding for the long-term management of the HM lands. The MFA, at a minimum:</p> <p>Requires Permittee to fund the full annual costs of managing the HM lands from Permittee's annual budget;</p> <p>Requires Permittee to fund and maintain a perpetual security endowment (the Reserve Fund) equal to the cost of five (5) years of management funding for the HM lands for the Project, as calculated in the PAR required by Condition of Approval 9.4.3;</p>	ITP Condition # 9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>Allows CDFW unilaterally to call upon the security endowment, after written notice and a reasonable opportunity to cure, in the event of non-performance of any management obligations by Permittee;</p> <p>Requires Permittee to replenish the security endowment in the event CDFW calls on those funds pursuant to Condition of Approval 9.4.1.3; and</p> <p>Requires Permittee to provide a full endowment fund pursuant to Condition of Approval 9.4.2 within ninety (90) days of receipt of written notice from CDFW of a material breach of the MFA by Permittee.</p>				
30	<p>Endowment Fund. This section 9.4.2 applies only in the event CDFW provides notice of MFA termination pursuant to Condition of Approval 9.4.1.5 above and Section 7 of the MFA. A long-term management fund (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 required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. In the event that funding is not provided through a Perpetual Funding Agreement in accordance with Condition of Approval 9.4.1 above, such activities shall be funded through the Endowment, and the following requirements shall apply.</p> <p>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).;</p> <p>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</p>	ITP Condition # 9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.				
31	<p>Calculate the Long-Term Management Costs for the Reserve Fund or Endowment. 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.</p> <p>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.</p> <p>Endowment Buffers/Assumptions. Permittee shall include in the PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p>	ITP Condition # 9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
32	Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Security shall be based on the full cost of mitigation pursuant to Condition of Approval 9.1. With regard to the requirement for long term management funding for the HM lands, Permittee shall either deposit into the Reserve Fund five years of perpetual management funding as required by the MFA prior to commencing Covered Activities or provide Security in the full amount required by Condition of Approval 9.4.1. If Permittee provides Security for the Endowment, that portion of	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>the Security shall be released when Permittee deposits into the Reserve Fund five years of perpetual management funding as required by the MFA. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$650,159.35. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.</p> <p>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.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> <p>Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>				
DURING CONSTRUCTION					
34	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.	ITP Condition # 6.3		Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.				
35	Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
36	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. Refueling of equipment and vehicles will not occur within 100 feet of surface waters. All hazardous materials shall be properly stored and labeled according to the manufacturer and shall not be kept closer than 100 feet from surface waters.	ITP Condition # 6.15	Entire Project	Permittee	
37	Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. During trail construction only, the Designated Biologist shall be on site during vegetation removal and initial ground disturbing activities. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP.	ITP Condition # 7.3	Entire Project	Permittee	
38	Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 8.4.	ITP Condition # 7.4	Entire Project	Permittee	
39	Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.3 and 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.6	Entire Project	Permittee	
41	Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
42	<p>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.</p> <p>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</p> <p>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</p> <p>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</p>	ITP Condition # 7.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>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</p> <p>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.</p>				
43	<p>Additional Impacts to Habitat. No take beyond the permanent loss of 5.31 acres of habitat for the Covered Species and conversion of 8.57 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.</p> <p>Tracking Impacts. Permittee shall track all impacts and notify CDFW if take authorization is likely to be exceeded in the coming month. If CDFW determines in writing that the take authorization for conversion 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.</p>	ITP Condition # 7.10	Entire Project	Permittee	
44	<p>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/.</p>	ITP Condition # 7.11	Entire Project	Permittee	
45	<p>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 subsequently restored. 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.</p>	ITP Condition # 7.12	Entire Project	Permittee	
46	<p>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 Conditions of Approval 8.17 and 8.18.</p>	ITP Condition # 8.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	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.	ITP Condition # 8.3	Entire Project	Permittee	
48	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.	ITP Condition # 8.5	Entire Project	Permittee	
49	<p>Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 8.5 unless no or low rainfall conditions persist (refer to Condition of Approval 8.7). 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 7.15) and an amendment to the ITP may be required. If work during dry conditions is extended past October 31, the following conditions shall apply:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>If Permittee requests ground-disturbing work to be conducted past October 31 when rainfall has exceeded amounts described in Condition of Approval 8.7 then an Amendment to the ITP shall be required.</p>	ITP Condition # 8.6	Entire Project	Permittee	
50	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	ITP Condition # 8.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.				
51	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.	ITP Condition # 8.8	Entire Project	Permittee	
52	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 8.9 and 8.19) within the area that the Permittee will clear immediately prior to vegetation removal. Permittee shall not disk or till vegetation.	ITP Condition # 8.13	Entire Project	Permittee	
53	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 8.17 and 8.18) 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.	ITP Condition # 8.14	Entire Project	Permittee	
54	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.	ITP Condition # 8.15	Entire Project	Permittee	
55	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	ITP Condition # 8.16	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	appropriate best management practices to protect stockpiles and prevent soil erosion.				
56	California Tiger Salamander Relocation. The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.	ITP Condition # 8.18	Entire Project	Permittee	
57	Pre-Activity Surveys. The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during grading, excavation, or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g., mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 8.17 and 8.18 and monitor it until it is determined that it is not imperiled by predators or other dangers.	ITP Condition # 8.19	Entire Project	Permittee	
58	<p>Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured California tiger salamander 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:</p> <p>a) If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 8.17 and 8.18.</p> <p>b) If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.9.</p>	ITP Condition # 8.20	Entire Project	Permittee	
59	Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (<i>Ambystoma tigrinum mavortium</i>) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW.	ITP Condition # 8.21	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 8.20).				
60	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 Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.	ITP Condition # 8.23	Entire Project	Permittee	
61	Vegetation Marked for Protection. Permittee shall ensure vegetation is 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.	ITP Condition # 8.24	Entire Project	Permittee	
62	Vegetation Removal Methods. Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.	ITP Condition # 8.25	Entire Project	Permittee	
63	Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds on dirt roads do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
64	Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP. Excess spoils shall be legally disposed of at a landfill unless otherwise described in this ITP.	ITP Condition # 6.14	Entire Project	Permittee	
65	CDFW may issue Permittee a written stop-work order to suspend any activity covered by this ITP for an initial period of up to 25 days to prevent or remedy a violation of ITP conditions (including but not limited to failure to comply with reporting, monitoring, or habitat acquisition obligations) or to prevent the illegal take of an endangered, threatened, or candidate species. Permittee shall comply with the stop-work order immediately upon receipt thereof. CDFW may extend a stop-work order under this provision for a period not to exceed 25 additional days, upon written notice to the Permittee. CDFW shall commence the formal suspension process pursuant to California Code of Regulations, Title 14, section 783.7 within five working days of issuing a stop-work order.	ITP	Entire Project	Department of Fish and Wildlife	
POST CONSTRUCTION					

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
66	Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.17	Post-construction	Permittee	
67	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.	ITP Condition # 7.8	Post-construction and after completion of mitigation	Permittee	

Attachment 2

http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp

Restraint and Handling of Live Amphibians

STANDARD OPERATING PROCEDURE

ARMI SOP No. 100

Revised, 16 February 2001

- I. PURPOSE: Provide guidelines for humane handling of amphibians so that injury and distress to the amphibian are minimized.
- II. SCOPE: These guidelines apply to larvae and tadpoles, as well as adult frogs, toads, salamanders and neotenes. Because of their anatomically different and very delicate skin, tadpoles and larvae must be handled differently than post-metamorphic amphibians.
- III. EQUIPMENT and SUPPLIES.
 - A. Standard capture equipment (seine nets, dip nets, minnow traps)
 - B. Clear plastic bags (half liter or full liter size)
- IV. BACKGROUND: There are three main hazards associated with handling live amphibians: two to the amphibian and one to the handler. To amphibians, the main dangers of being handled are skin damage that could result in secondary skin infections, and bone and muscle injuries caused by struggling when being held. For the handler, the main danger comes from toxic skin secretions produced by some amphibians (in the USA, this is mostly newts and the introduced giant/marine toad). Tadpoles and larvae have thin delicate skin that is very easily damaged by the slightest handling. The skin of larvae lacks keratin and has fewer cell layers than adult amphibian skin. Therefore, direct contact handling of tadpoles and larvae is to be avoided; instead, these amphibian stages are examined through clear flexible plastic bags containing water. Although the skin of adult (post-metamorphic) amphibians has keratin and is less delicate than larval skin, their skin is still much more delicate than the skin of reptiles, birds and mammals. Rough handling of adult amphibians can easily result in skin abrasions, small tears, punctures, erosions and ulcers; normally, minor skin wounds heal quickly, but if contaminants, sewage or high levels of microorganisms are present in the pond or other environment, then wound infections are possible.
Frogs and Toads. All amphibians can be expected to struggle following capture. For anurans, there is a danger that vigorous kicking with the hindlimbs can cause joint dislocations or a broken (fractured) back; broken backs are a well-documented and major problem in another species that moves by hopping---rabbits. Therefore, proper

restraint of anurans, first and foremost involves inhibiting their ability to kick. Salamanders. For salamanders, there are three major dangers associated with handling: 1) loss (automizing) of the tail, 2) damage to the very delicate external gills (in neotenes), and 3) back injury during whip-like thrashing movements.

V. METHODS OF PHYSICAL RESTRAINT:

- A. Anurans. Medium and large size frogs and toads (those about 5 grams and larger) should be grasped around the waist with the hindlimbs fully extended. The animal should not be allowed to bend (flex) its hip and knee joints, since this would allow it to kick.
- B. Caudates. Medium and large size salamanders (those about 5 grams and larger) should be grasped in the middle of the body between the forelimbs and hindlimbs. Larval and neotenic salamanders should never be grasped around the head or neck, because the gills can be easily damaged. Under no circumstances should salamanders be grasped by the tail or picked up by the tail.
- C. Larvae. All larvae (including tadpoles) should be handled with nets or scoops. For examinations, the larvae should be placed in a clear plastic bag with a mild amount of water. Alternatively, larvae may be sedated with an anesthetic and examined in a dish or bowl of water. As much as possible, larvae should be examined only while they are in water. Larvae should not be grasped with bare hands.

VI. MISHAPS.

- A. Skin wounds: If an amphibian suffers a skin wound during handling, it is recommended that the wound be sprayed with the over-the-counter product, Bactine® (See the SOP on Toe Clipping of Frogs and Toads, NWHC ACUC Protocol 2001-004). All other topical antiseptics and disinfectants (sprays and ointments) are CONTRAINDICATED in amphibians. If possible, the animal should then be released on land rather than into water, since the antiseptic spray would be quickly washed off in water.
- B. Broken back: If a frog or toads suffers a broken back during capture or handling, it should be promptly euthanized. It would be inhumane to release such a crippled animal. An animal with a broken back will have serious damage to the spinal cord and should show almost immediate paralysis of the hindlimbs and tail. Recommended methods of humane euthanasia include (see NWHC ACUC Protocol 1999-009, Methods of Euthanasia):
 - 1. Pithing
 - 2. Overdosing in anesthetic solutions of MS222 or benzocaine

3. Application of a benzocaine-based topical ointment (as used by humans to relieve tooth-aches) to the top of the head and dorsum of the body.
-
- C. Broken leg: If a major bone of a limb is broken during capture or handling, the animal should be euthanized or taken to a wildlife rehabilitation center or veterinarian for treatment. A broken leg bone typically is recognized as an abnormal bend in the leg where there is no joint; other signs of a broken leg bone are protrusion of a bone fragment through the skin, inability of the animal to move a limb or position a leg in its normal resting posture. After treatment, amphibians with broken bones might be given to a zoo or placed in a captive breeding program. Only if the injured amphibian is kept isolated from all other fish, amphibians and reptiles (eg, in a separate cage) during treatment, can it later be considered for release at the point of capture. Injuries to digits (toes and fingers) generally are not life-threatening; if the skin of the injured toe also is wounded, then treatment with Bactine® prior to immediate release is acceptable. If a toe bone is broken and protruding through the skin, the affected toe may be amputated just proximal to the site of the fracture, the stump should be sprayed with Bactine®, and the animal may be released.
 - D. Automized tail: If a salamander automizes (detaches) its tail during capture or handling, the stump should be treated (sprayed) with Bactine®; the salamander can then be promptly released.
 - E. Crushing injuries to head and body. Amphibians that have serious injuries to skin, muscles and bones should be promptly euthanized. Crushing injuries that are limited to a limb or tail will require treatment at a wildlife rehabilitation center or a veterinary clinic; alternatively, the animal may be euthanized, but it would be inhumane to release a seriously injured amphibian.
 - F. Snout abrasions. Amphibians that are held in glass or clear plastic containers may jump head-first into the glass, or may rub their snout against the container in attempts to burrow out. If amphibians are held for more than an hour in a clear container (bottle, aquarium, etc), they should be examined for evidence of skin injury at the tip of the snout and elsewhere around the head prior to release. If abrasions are detected, they should be sprayed with Bactine® prior to release.
 - G. Toxic skin secretions. All amphibians have glands in their skin that secrete a vast number of chemicals; some of which are merely noxious and repellent-like, while others may cause skin or eye irritation, and some may actually kill. The poison-dart frogs of Central America are an example of a frog with toxic secretions that can kill a human. Among the native amphibians of the United

States, the two amphibians of greatest concern are giant toads (also called cane toads, marine toads, aka toads; *Bufo marinus*) and western newts of the genus, *Taricha*.

Giant toads secrete a potent white mucoid substance from their parotid glands (large warts just behind the eyes) that affects the heart, but it is not absorbed through the intact human skin; however, the toxin is readily absorbed through the eyes and mouth. Hence, the best way to prevent poisoning is to carefully avoid rubbing the eyes or putting fingers in the mouth after handling a giant toad. If skin secretions of giant toads contact the eye or mouth, then flush promptly with generous amounts of clean fresh water or contact lens wetting solution, and then seek emergency care at a clinic or hospital if stinging or numbness of the eye or mouth develops.

Newts of the genus, *Taricha*, also secrete toxins from their skin; it is presumed that the entire body of these newts secretes toxins (newts and other salamanders do not have parotid glands). Their skin secretions are very irritating to the eyes and mouth. Temporary blindness (lasting about 24 hrs) has been reported by field biologists that handled newts and then rubbed their eyes. If sensations of blurred vision, or burning or stinging of the eyes occur after handling any genus or species of newt, wash the eyes with copious amounts of fresh clean water (or contact lens wetting solutions) and promptly seek medical care. Persons with newt skin secretions in their eyes are advised not to drive a vehicle or operate other dangerous or heavy equipment.

Finally, it is possible that other amphibian species in the USA besides giant toads and newts, could produce skin secretions that are irritants to the eyes. Furthermore, amphibians may carry some bacteria in their intestines and feces that are human pathogens, such as the bacteria, *Salmonella* and *Leptospira*. Hence, it is always best to practice good personal hygiene after handling any amphibian (namely, thoroughly wash your hands with soap and water).

VII. CITED LITERATURE:

1. MARTIN, D., and H. HONG. 1991. The use of Bactine® in the treatment of open wounds and other lesions in captive anurans. *Herpetol Rev* 22: 21.

ATTACHMENT 3A

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

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

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

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

Documents in this package include:

☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed.

Date executed: _____

☐ Proposed Lands for Acquisition Form (PLFAF)

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

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

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

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

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

☐ County Assessor Parcel Map(s) for subject property

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

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

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

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is

for a Grant Deed)

☐ Biological Resources Report

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

ATTACHMENT 3B

PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel of land be considered for approval by the CDFW as suitable for purposes of habitat management lands to replace the adverse environmental impacts of the Project:

SectionTownshipRangeNumber of Acres

_____Current Legal Owner(s), include Parcel Number(s):_____

Location of Parcel:

APPROVED ____

REJECTED ____

By: _____

Region

DATE: _____

Explanation: _____

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

Issue Date: [***date***]

Beneficiary:

California Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: HCPB Mitigation Account Coordinator

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

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

Dear Sirs:

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

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

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

[*Name of financial institution*]

By: _____

Name: _____

Title: _____

ATTACHMENT A

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

To:

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

ATTACHMENT B

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

To:

[***Name of financial institution and address***]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

California Department of Fish and Wildlife
Mitigation Payment Transmittal Form

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

(1) **DATE:** _____

TO: _____

[CDFW Regional Manager]

 [CDFW Regional Office Address]

(2) **FROM:** _____

Name

 Mailing Address

 City, State, Zip

 Telephone Number/FAX Number

(3) **RE:** _____

[Project Name as appears on permit/agreement]

(4) **AGREEMENT/ACCOUNT INFORMATION:**

(Check the applicable type)

☐ 2081 Permit ☐ Conservation Bank ☐ 1802 Agreement

☐ 2835 NCCP ☐ Other _____

 [Project Tracking Number]

 [FASB Mitigation Tracking Number (if available)]

Index _____ PCA _____

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

Check information:

Total \$ _____

Check No. _____

Account No. _____

Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____