

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

<b>1. DATE:</b> _____	<b>2. FROM:</b> _____
<b>TO:</b> _____	Name _____
Regional Manager _____	Mailing Address _____
_____	City, State, Zip _____
Region Office Address _____	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    ☐ 2835 NCCP    ☐ 1802 Agreement    ☐ 1600 Agreement    ☐ Other \_\_\_\_\_

\_\_\_\_\_

Project Tracking Number

Check information:

Total \$ \_\_\_\_\_ Check No. \_\_\_\_\_

Account No.	Bank Routing No.
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- a. Endowment: for Long-Term Management Subtotal \$ \_\_\_\_\_
- b. Habitat Enhancement Subtotal \$ \_\_\_\_\_
- c. Security:
1. Cash Refundable Security Deposit Subtotal \$ \_\_\_\_\_
2. Letter of Credit Subtotal \$ \_\_\_\_\_
1. Financial Institution: \_\_\_\_\_
2. Letter of Credit Number: \_\_\_\_\_
3. Date of Expiration: \_\_\_\_\_

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

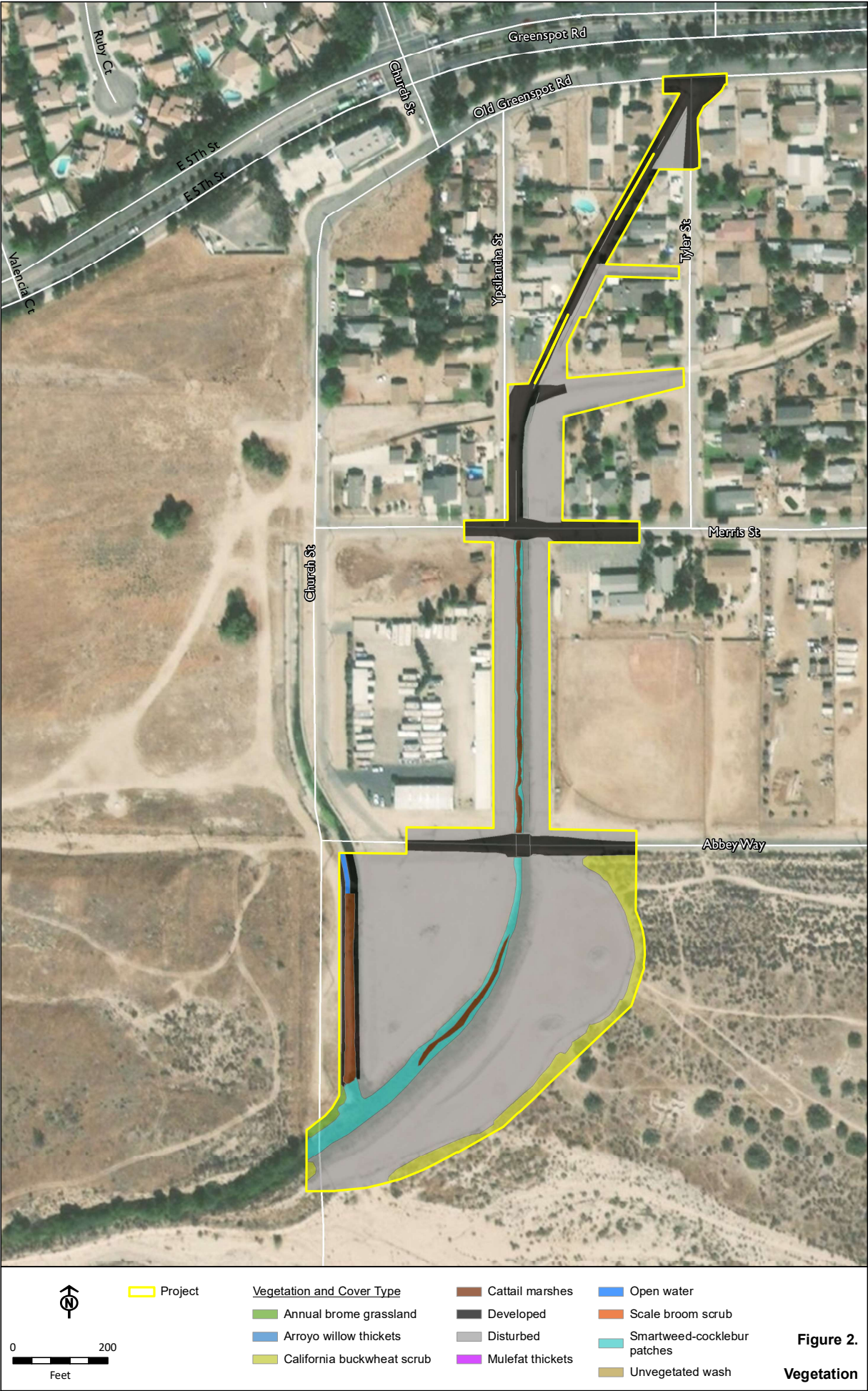


Figure 1.  
Project Location















**California Department of Fish and Wildlife  
Inland Deserts Region  
3602 INLAND EMPIRE BLVD, SUITE C-220  
ONTARIO CA, 91764**

California Endangered Species Act  
Incidental Take Permit No. 2081-2020-016-06

**ELDER CREEK CHANNEL IMPROVEMENT PROJECT**

**Authority:**

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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).

<b>Permittee:</b>	<b>San Bernardino County Flood Control District</b>
<b>Principal Officer:</b>	<b>Harold Zamora, (909) 387-8109</b>
<b>Contact Person:</b>	<b>Michele Derry, (909) 387-8114</b>
<b>Mailing Address:</b>	<b>825 E. Third St. Room 123 San Bernardino, CA 92415</b>

**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 **September 3, 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 7.7 of this ITP.

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

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

**Project Location:**

The Elder Creek Channel Improvement Project (Project) is located along approximately 2,100 linear feet of Elder Creek within the City of Highland, San Bernardino County (see Figure 1: Map of Project). The Project is located from Old Greenspot Road to just southwest of the confluence of Elder Creek and Church Street Channel, approximately 700 feet downstream of Abbey Way. Within the Project, Elder Creek begins as a reinforced concrete box, transitions into an open channel, and then confluences with Plunge Creek downstream.

**Project Description:**

The Project is limited to construction work along 2,100 linear feet of Elder Creek Channel, grading and reconfiguration within East Highland Storm Drain, and vegetation removal within Church Street Channel. Project activities include improvements as described below (see Figure 2: Project Activities).

Project activities within Elder Creek Channel extend from Old Greenspot Road (northern limit) to just southwest of the confluence of Elder Creek and Church Street Channel, approximately 700 feet downstream of Abbey Way (southern limit). Between Old Greenspot Road and just north of Merris Street, two existing concrete box culverts (10-feet wide by 7-feet deep) will be replaced with a concrete rectangular channel (12-feet wide and 14-feet deep). Upstream of Merris Street, the existing 14-foot wide by 6-foot deep channel will be widened and deepened to 20-feet and 8-feet, respectively. The existing trapezoidal, riprap and wire revetment, earthen channel between Merris Street and Abbey Way will be replaced with a 20-foot wide by 8-foot deep concrete rectangular channel. Additionally, the two existing 14-foot wide box culverts at the road crossings of Merris Street and Abbey Way will be replaced with two 24-foot wide box culverts. Sewer sleeves of 20-inch in diameter will be placed directly beneath the culverts and extend 24 feet.

The earthen East Highland Storm Drain, which drains into Elder Creek Channel, will be regraded to a trapezoidal channel configuration with a 2:1 side slope and a bottom width of 6 feet. The new channel will include an erosion control mat on the bottom and side slopes. Where East Highland Storm Drain and Elder Creek Channel confluence, the existing 65-foot long section of the concrete trapezoidal channel will be removed and replaced with a 48-inch concrete pipe and apron to direct runoff into Elder Creek Channel.

Downstream of Abbey Way, Elder Creek Channel will be maintained as a low-flow, vegetated channel, and a concrete, rectangular by-pass channel, 26-feet wide by 10-feet high, will be constructed adjacent to the earthen channel. The by-pass channel will discharge low flows into a 45-foot by 40-foot concrete sedimentation basin via a low-flow pipe/box drain. The basin will capture and remove sediment and flows will move through the basin into the earthen channel downstream. A berm will be constructed to protect the earthen channel. At the confluence of the concrete by-pass channel, the low-flow channel, and Church Street

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Channel, grouted rip rap (120 linear feet of ¼ ton, 3.5-feet thick), will be placed to control erosion and reduce flow velocities. Downstream of the grouted riprap, grading will occur for approximately 100 feet to meet downstream grades. To ensure proper flow conveyance post-construction, Church Street Channel will be cleared of vegetation once.

An existing stockpile southeast of the low-flow channel will be removed, graded and sloped to meet existing terrain, and revegetated with Riversidean alluvial fan sage scrub (RAFSS) species.

**Covered Species Subject to Take Authorization Provided by this ITP:**

This ITP covers the following species:

Name	CESA Status
1. San Bernardino Kangaroo Rat ( <i>Dipodomys merriami parvus</i> )	Candidate <sup>3</sup>

This species and only this species is the “Covered Species” for the purposes of this ITP.

**Impacts of the Taking on Covered Species:**

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include vegetation removal, clearing/grubbing, excavation, grading, filling, and operation and staging of vehicles and heavy equipment (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as crushing of individuals, collapse or damage of burrows, increased exposure, increased risk of predation, vehicle strikes, injury to individuals, and covering of individuals with soil. The areas where authorized take of the Covered Species is expected to occur includes the 0.44 acres of California buckwheat scrub south of Abbey Way (Project Area) which is growing around the perimeter of the Project site (see Figure 3: Vegetation Communities).

The Project is expected to cause the permanent loss of 0.03 acres of habitat for the Covered Species, and temporary loss of 0.41 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to decreased movement, including the reduction of individuals’ nightly movements, home range pattern,

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<sup>3</sup>The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.



and dispersal events; decreased connectivity and habitat fragmentation, including the increased risk of predation; heightened stress from the reduction or elimination of day burrows and food caches, interrupted behavioral dynamics and structural community (intra/inter competition, disruption of breeding and/or lower reproductive success); and the Project's incremental contribution to cumulative impacts (indirect impacts).

#### **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.

#### **Conditions of Approval:**

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2019099095) adopted by the San Bernardino Flood Control District on April 7, 2020 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 Agreement (LSAA) (Notification No. 1600-2020-0020-R6) for the Project when 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 Elder Creek Channel Improvement Project Biological Opinion (08ECAR00-2020-F-1315) for the Project when executed pursuant to

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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:**

6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, and 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.

6.4. 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. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 6.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.

- 6.10. 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 do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.11. 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 6.10 of this ITP.
- 6.12. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall handle all hazardous materials in accordance with federal, state, and local requirements and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.13. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.14. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.



## **7. Monitoring, Notification and Reporting Provisions:**

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when initial clearing and ground-disturbing activities occur within Covered Species habitat, and at least twice weekly thereafter to conduct compliance monitoring, as follows. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once weekly during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly 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. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Marina Barton (marina.barton@wildlife.ca.gov) and Headquarters CESA Program email is CESA@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.

- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly 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.
- 7.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project.



The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0523. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

8.1. Exclusionary Fencing Installation. Permittee shall erect fencing at the southeastern boundary of the Project Area south of Abbey Way (see Figure 4: Exclusionary Fence) to exclude SBKR no more than 15 days prior to the initiation of Covered Activities. The Designated Biologist(s) shall be present during the fence installation.

8.2. Trapping Inside Exclusion Fence. No more than 7 days prior to the initiation of Covered Activities, the Designated Biologist(s) shall conduct small mammal trapping within the exclusionary fenced area. Small mammal trapping shall continue for a minimum of 5 consecutive nights with at least 3 consecutive nights of no SBKR captures. To improve capture probabilities, the Designated Biologist shall pre-bait (seed) within the exclusionary fence for 3 days prior to onset of trapping. Seed will be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community. The Designated Biologist(s) shall conduct trapping only if the nightly low temperature is forecast to be 50 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals.

8.2.1. If a SBKR lactating female is captured, she shall be released and followed to determine where her burrow is located before being recaptured. A fiber-optic scope or mini camera shall be immediately used within the located burrow or, if not found, all kangaroo burrows within a 20-meter (66 feet) radius. If no SBKR pups are observed within the burrow, it shall be hand excavated to ensure no occupancy. If SBKR pups are observed, CDFW shall be notified at once, and the pups shall be captured and placed in a rodent carrier with the female at temperature-controlled location where daylight is excluded.

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- 8.2.2. The Designated Biologist(s) shall affix ear tags with a unique alphanumeric code or other CDFW-approved unique marking/identifier that will last at least two months to each captured SBKR (including lactating females but excluding pups) and each shall be placed in a standard rodent carrier for relocation outside of the Project Area.
- 8.2.3. The Designated Biologist(s) shall record captured kangaroo rats' age, gender, reproductive status, mass, trap location, and ear tag identification.
- 8.3. SBKR Relocation. The Designated Biologist shall relocate all SBKR trapped within the exclusion fence to the southern edge of the property outside of the Project Area (Relocation Area) as follows:
- 8.3.1. Prior to relocation of SBKR, the Designated Biologist shall dig burrows into the ground using a soil auger that is approximately the same diameter as a SBKR burrow (45 mm) at roughly a 30° angle to a length of 1 m (3.3 feet). To maintain the integrity of the created burrow, cardboard mailing tubes, or other structural material shall be placed in the burrow, as required.
- 8.3.2. The Designated Biologist shall place a combination of romaine lettuce, inoculated finch seed mix, and plant seeds native to the release site within the constructed burrow prior to SBKR relocation. Seed shall be microwaved for 1-3 minutes to prevent seed germination and alteration of the native vegetation community.
- 8.3.3. Once the burrow is established, the Designated Biologist shall place each relocated SBKR into its own burrow. The burrow entrance shall be plugged for 24 hours before unplugging the following night.
- 8.4. Supplemental Feeding. Permittee shall complete supplemental feeding following the relocation of the SBKR. Seed shall be broadcast within the Relocation Area three (3) evenings per week for the first month following the relocation and one evening each week thereafter for the next three (3) months. Seed will be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community.
- 8.5. Relocation Monitoring. Following the relocation, the Designated Biologist(s) shall conduct live small mammal trapping within the Relocation Area approximately 30 days (1 month) following relocation, and annually thereafter for the duration of the project. Trapping shall be conducted for a minimum of two consecutive nights, with an additional third night required using a Havahart trap, if no relocated-SBKR have been

trapped. Trapping shall be conducted when the nightly low temperature is forecast to be 50 degrees Fahrenheit or above, and when no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or unduly imperil the lives of the animals. To improve capture probabilities, the Designated Biologist shall pre-bait the Relocation Area for 3 days prior to onset of each trapping session. The Designated Biologist(s) shall record the age, gender, mass, trap location, new/recapture status, and tag identification, if applicable, for all captured SBKR. The Designated Biologist shall also note any injuries or signs of trauma. Permittee shall submit reports of the relocation monitoring findings to CDFW within 1 week of each trapping session.

- 8.6. Exclusionary Fence Maintenance. SBKR exclusionary fencing shall be inspected by the Designated Biologist(s) at the close of each workday during initial ground-disturbance within Covered Species habitat, and twice weekly thereafter, to ensure that it is in place and properly maintained for the duration of Covered Activities.
- 8.7. SBKR Monitoring. Designated Biologist(s) shall perform daily visual surveys for all kangaroo rat burrows, sign, and individuals within a 100-foot buffer of the Project Area prior to and during implementation of the initial ground-disturbing Covered Activities. If Covered Activities are occurring within 100 feet of a potential SBKR burrow, the Designated Biologist(s) shall monitor the burrow for disturbance (e.g. debris or water accumulation) a minimum of 3 times daily. If the Designated Biologist(s) suspects or identifies evidence of disturbance, the Permittee shall immediately halt Covered Activities adjacent to the affected area, make adjustments to the location, type, and/or frequency of the Covered Activities occurring to preclude further potential impacts, and increase monitoring of the burrow to ensure the adjustments were effective. The Designated Biologist(s) shall use best professional judgement regarding the monitoring period and adjustment of the work buffer surrounding the burrow. If impacts beyond those authorized in this ITP are identified or suspected, Permittee shall cease the Covered Activities potentially responsible for those offsite impacts and submit to CDFW immediately a request to amend the ITP. Results of monitoring, including photographs and a brief assessment, the type of activity occurring (e.g. grading, building, etc.), distance from the burrow, impacts measured/noted, and any buffer adjustment made shall be provided to CDFW within 24 hours.
- 8.8. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a

written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.

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

To meet this requirement, the Permittee shall either purchase 0.64 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2), OR shall provide for both the permanent protection and management of 0.64 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. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 0.41 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below.

- 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 \$135,000/acre for 0.64 acres: \$86,400. 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 \$8,876.19;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$13,266.28;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$23,235.95/acre for 0.64 acres: \$14,871.01. Long-term

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management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.5. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.5, calculated at \$30,468.40/acre for 0.41 acres: \$12,492.04.

9.2. Covered Species Credits. Permittee shall purchase 0.64 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 2B) identifying the land to be purchased or

property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 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 long-term management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>) (2) prepare a HMMP for CDFW approval that includes baseline biological information requirements; (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, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2)

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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. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 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 long-term management plan. Such activities shall be funded through the Endowment.

- 9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government

Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

- 9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.
- 9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
- 9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
  - 9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
  - 9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
  - 9.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment



Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

- 9.5. Habitat Restoration. Permittee shall restore on-site the 0.41 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within six months of issuance of this ITP, the Permittee shall prepare a Habitat Restoration Plan (Plan) to facilitate revegetation of the 0.41 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. Permittee may choose to address these activities, jointly, in the HMMP required for the restoration of the HM lands (Condition of Approval 9.3.5) in lieu of preparing two separate plans. If completing the dual-purpose document, the joint HMMP shall contain all information as described below. At minimum, the Plan (or dual-purpose HMMP) shall include the following information for the restored habitat: (1) a quantitative description of the existing pre-project habitat including percent cover and species diversity; (2) a plan for recontouring and decompaction of disturbed habitat to pre-impact or better conditions, and methods for placement of harvested soil, if proposed; (3) a local California native plant palette and/or seed mix appropriate for scalebroom and buckwheat scrub and application methods; (4) methods, timing, and duration of irrigation; (5) a plan for the removal of nonnative plant species, trash, and debris; (6) maintenance and monitoring schedule including at least quarterly visits for the first year; (7) performance criteria based on quantitative description of existing habitat; (8) contingency measures if performance criteria are not met (e.g., re-seeding or planting of container plants, irrigation or fencing changes, etc.); and (9) an aerial map that identifies the placement of the protective signage and a description of the wording of the signage to be installed to protect the areas, and a plan to maintain the signage until CDFW restoration sign off. Permittee shall ensure that the Plan is successfully implemented, and the performance criteria are met. Monitoring and maintenance of the restored habitat shall be conducted for a minimum of 5 years, or until CDFW determines the restoration effort is successful.

- 10. Performance Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

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- 10.1. Security Amount. The Security shall be in the amount of **\$135,905.52**. 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 3) 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 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after 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 or Covered Species bank credits;
  - Copies of all executed and recorded conservation easements;
  - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment;
  - Successful restoration of temporarily impacted Covered Species habitat; and
  - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required Covered Species credit purchase or 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:**

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 (2081-2020-016-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Leslie MacNair, Regional Manager  
California Department of Fish and Wildlife  
3602 Inland Empire Boulevard, Suite C-220,  
Ontario, CA 91764  
Telephone (909) 484-0167  
Fax (909) 481-2945

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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](mailto: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:

Marina Barton  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
Telephone (909) 484-0523  
Fax (909) 481-2945

**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, the San Bernardino County Flood Control District. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Elder Creek Channel Improvement Project Final Mitigated Negative Declaration and Initial Study, (SCH No.: 2019099095) dated January 2020, that the San Bernardino County Flood Control District adopted the Elder Creek Channel Improvement Project on April 7, 2020. 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

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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 & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, the Elder Creek Channel Improvement Project Final Mitigated Negative Declaration and Initial Study, 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) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 0.64 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;

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- (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
FIGURE 2	Project Activities
FIGURE 3	Vegetation Communities
FIGURE 4	Exclusionary Fence
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

11/6/2020


on \_\_\_\_\_

DocuSigned by:  
*Scott Wilson* for  
8091B1A9242F49C...

Leslie MacNair  
Regional Manager

**ACKNOWLEDGMENT**

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

By:  \_\_\_\_\_ Date: 12/29/2022

Printed Name: Anthony Pham for Harold Zamora Title: Engineering Manager

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State of California –The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM**, Governor  
**CHARLTON H. BONHAM**, Director



November 6, 2020

Harold Zamora  
San Bernardino County Flood Control District  
825 E. Third Street, Room 123  
San Bernardino, CA 92415

**Subject: Incidental Take Permit for Elder Creek Channel Improvements Project  
(2081-2020-016-06)**

Dear Harold Zamora:

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, sign the acknowledgement, and return the original **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities.

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 Marina Barton, Environmental Scientist, at (909) 948-9632.

Sincerely,

DocuSigned by:  
 *for*  
8091B1A9242F49C...

Leslie MacNair  
Regional Manager



**Attachment 1**

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

**INCIDENTAL TAKE PERMIT NO. 2081-2020-016-06**

**PERMITTEE: San Bernardino County Flood Control District**

**PROJECT: Elder Creek Channel Improvement Project**

**PURPOSE OF THE MMRP**

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

**OBLIGATIONS OF PERMITTEE**

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

**VERIFICATION OF COMPLIANCE, EFFECTIVENESS**

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

## **TABLE OF MITIGATION MEASURES**

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>BEFORE DISTURBING SOIL OR VEGETATION</b>					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology and natural history 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	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in that area.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
6	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	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Permittee shall either purchase 0.64 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2), OR shall provide for both the permanent protection and management of 0.64 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. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 12 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 8 below for all uncompleted obligations.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
8	CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows: <ul style="list-style-type: none"> <li>i) Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$135,000/acre for 0.64 acres: <b>\$86,400</b>. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</li> <li>ii) 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 <b>\$8,876.19</b>;</li> <li>iii) Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at <b>\$13,266.28</b>;</li> <li>iv) Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$23,235.95/acre for 0.64 acres: <b>\$14,871.01</b>. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management;</li> <li>v) Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.5, calculated at \$30,468.40/acre for 0.41 acres: <b>\$12,492.04</b>.</li> </ul>	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
9	Permittee shall purchase 0.64 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 the ITP if Security is provided pursuant to Condition of Approval 10 below.	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
10	To provide for the acquisition and protection of the HM lands, the Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved by CDFW. Alternatively, a CDFW-approved non-profit organization qualified pursuant to California Government Code section 65965 or CDFW-approved public agency (collectively "approved entity") may hold fee title or act as grantee for a conservation easement over the HM lands. If an approved entity holds fee title, Permittee shall record a conservation easement in favor of CDFW or a CDFW-approved entity as grantee. If an approved entity holds a conservation easement, CDFW shall be named third-party beneficiary. The Permittee shall obtain CDFW approval of any conservation easement before its recordation.	ITP Condition #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
11	Permittee shall obtain CDFW approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
12	Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
13	Permittee shall designate an interim and long-term land manager. Permittee may select the conservation easement grantee, land owner, or other party as the land manager. Documents related to land management shall identify the land manager. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as long-term land manager unless otherwise specified.	ITP Condition #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
14	Permittee shall 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 long-term management plan for CDFW approval (see <a href="http://www.dfg.ca.gov/habcon/conplan/mitbank/">http://www.dfg.ca.gov/habcon/conplan/mitbank/</a> ); (2) prepare a HMMP for CDFW approval that includes baseline biological information requirements; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
15	Permittee shall provide for the interim management of the HM lands. The interim management period shall be a minimum of 3 years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected annual management (described in the final management plan) following start-up activities. Interim management period activities include fence repair, continuing trash removal, site monitoring, and vegetation management [list other necessary expected management here]. Permittee shall either (1) provide a security for the 3 year interim management amount that the land owner, Permittee, or land manager agrees to manage at their own expense, (2) establish an escrow account with instructions to pay the land manager annually in advance, (3) establish a short-term enhancement sub-account with the National Fish and Wildlife Foundation (NFWF) for annual payment to the land manager, or (4) establish a short-term enhancement account with CDFW for annual payment to the land manager.	ITP Condition #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
16	<p>If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the 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 in-perpetuity management of the HM lands by establishing a long-term management fund (Endowment Fund). The Endowment Fund is a sum of money, held in a CDFW-authorized trust fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment Fund as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the long-term management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
17	<p>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>	ITP Conditions #9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
18	<p>After obtaining CDFW approval of the HM lands, long-term management plan, and Endowment Fund 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 Fund Manager.</p>	ITP Conditions #9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	



	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
19	Permittee shall obtain the capitalization rate from the selected Endowment Fund Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions #9.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
20	Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment Fund: <ul style="list-style-type: none"> <li>• A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</li> <li>• The endowment shall be established assuming spending will not occur for the first three years after full funding.</li> <li>• For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Fund Manager and CDFW.</li> </ul>	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
21	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.	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	<p>Permittee shall restore on-site the 0.41 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within six months of issuance of the ITP, the Permittee shall prepare a Habitat Restoration Plan (Plan ) to facilitate revegetation of the 0.41 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. Permittee may choose to address these activities, jointly, in the HMMP required for the restoration of the HM lands (Condition of Approval 9.3.5) in lieu of preparing two separate plans. If completing the dual-purpose document, the joint HMMP shall contain all information as described below. At minimum, the Plan (or dual-purpose HMMP) shall include the following information for the restored habitat: (1) a quantitative description of the existing pre-project habitat including percent cover and species diversity; (2) a plan for recontouring and decompaction of disturbed habitat to pre-impact or better conditions, and methods for placement of harvested soil, if proposed; (3) a local California native plant palette and/or seed mix appropriate for scalebroom and buckwheat scrub and application methods; (4) methods, timing, and duration of irrigation; (5) a plan for the removal of nonnative plant species, trash, and debris; (6) maintenance and monitoring schedule including at least quarterly visits for the first year; (7) performance criteria based on quantitative description of existing habitat; (8) contingency measures if performance criteria are not met (e.g., re-seeding or planting of container plants, irrigation or fencing changes, etc.); and (9) an aerial map that identifies the placement of the protective signage and a description of the wording of the signage to be installed to protect the areas, and a plan to maintain the signage until CDFW restoration sign off. If initial site restoration on HM Lands is required, Permittee shall incorporate details of the restoration needed for the HM lands into the Plan, and shall be responsible for implementing and meeting performance criteria, as specified in the Plan. Permittee shall ensure that the Plan is successfully implemented, and the performance criteria are met. Monitoring and maintenance of the restored habitat shall be conducted for a minimum of 5 years, or until CDFW determines the restoration effort is successful.</p>	ITP Conditions #9.5	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 7 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> <li><u>Security Amount</u>. The Security shall be in the amount of <b>\$135,905.52</b>. This amount is based on the cost estimates identified in Condition of Approval 7.1 above;</li> <li><u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel;</li> <li><u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first;</li> <li><u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW;</li> <li><u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other;</li> <li><u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP;</li> <li><u>Security Release</u>. 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: <ul style="list-style-type: none"> <li>Written documentation of the acquisition of the HM lands;</li> <li>Copies of all executed and recorded conservation easements;</li> <li>Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and</li> <li>Timely submission of all required reports.</li> </ul> </li> </ol> <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 12 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 12 months of the effective date of the ITP if Security is provided)	Permittee	
24	<p>Permittee shall erect fencing at the southeastern boundaries of the Project Area south of Abbey Way (see Figure 4: Exclusionary Fence) to exclude SBKR no more than 15 days prior to the initiation of Covered Activities. The Designated Biologist(s) shall be present during the fence installation.</p>	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
25	<p>No more than 7 days prior to the initiation of Covered Activities, the Designated Biologist(s) shall conduct small mammal trapping within the exclusionary fenced area. Small mammal trapping shall continue for a minimum of 5 consecutive nights with at least 3 consecutive nights of no SBKR captures. To improve capture probabilities, the Designated Biologist shall pre-bait (seed) within the exclusionary fence for 3 days prior to onset of trapping. Seed will be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community. The Designated Biologist(s) shall conduct trapping only if the nightly low temperature is forecast to be 50 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals.</p> <ul style="list-style-type: none"> <li>• If a SBKR lactating female is captured, she shall be released and followed to determine where her burrow is located before being recaptured. A fiber-optic scope or mini camera shall be immediately used within the located burrow or, if not found, all kangaroo burrows within a 20-meter (66 feet) radius. If no SBKR pups are observed within the burrow, it shall be hand excavated to ensure no occupancy. If SBKR pups are observed, CDFW shall be notified at once, and the pups shall be captured and placed in a rodent carrier with the female at temperature-controlled location where daylight is excluded.</li> <li>• The Designated Biologist(s) shall affix ear tags with a unique alphanumeric code or other CDFW- approved unique marking/identifier that will last at least two months to each captured SBKR (including lactating females but excluding pups) and each shall be placed in a standard rodent carrier for relocation outside of the Project Area.</li> <li>• The Designated Biologist(s) shall record captured kangaroo rats' age, gender, reproductive status, mass, trap location, and ear tag identification.</li> </ul>	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
26	<p>The Designated Biologist shall relocate all SBKR trapped within the exclusion fence to the Relocation Area at southern edge of the property, outside of the Project Area as follows:</p> <ul style="list-style-type: none"> <li>• Prior to relocation of SBKR, the Designated Biologist shall dig burrows into the ground using a soil auger that is approximately the same diameter as a SBKR burrow (45 mm) at roughly a 30° angle to a length of 1 m (3.3 feet). To maintain the integrity of the created burrow, cardboard mailing tubes, or other structural material shall be placed in the burrow, as required.</li> <li>• The Designated Biologist shall place a combination of romaine lettuce, inoculated finch seed mix, and plant seeds native to the release site within the constructed burrow prior to SBKR relocation. Seed shall be microwaved for 1-3 minutes to prevent seed germination and alteration of the native vegetation community.</li> <li>• Once the burrow is established, the Designated Biologist shall place each relocated SBKR into its own burrow. The burrow entrance shall be plugged for 24 hours before unplugging the following night.</li> </ul>	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
27	<p>Permittee shall complete supplemental feeding following the relocation of the SBKR. Seed shall be broadcast within the Relocation Area three (3) evenings per week for the first month following the relocation and one evening each week thereafter for the next three (3) months. Seed will be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community.</p>	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
28	Following the relocation, the Designated Biologist(s) shall conduct live small mammal trapping within the Relocation Area approximately 30 days (1 month) following relocation, and annually thereafter for the duration of the project. Trapping shall be conducted for a minimum of two consecutive nights, with an additional third night required using a Havahart trap, if no relocated-SBKR have been trapped. Trapping shall be conducted when the nightly low temperature is forecast to be 50 degrees Fahrenheit or above, and when no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or unduly imperil the lives of the animals. To improve capture probabilities, the Designated Biologist shall pre-bait the Relocation Area for 3 days prior to onset of each trapping session. The Designated Biologist(s) shall record the age, gender, mass, trap location, new/recapture status, and tag identification, if applicable, for all captured SBKR. The Designated Biologist shall also note any injuries or signs of trauma. Permittee shall submit reports of the relocation monitoring findings to CDFW within 1 week of each trapping session.	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
<b>DURING CONSTRUCTION</b>					
29	The Designated Biologist shall be on-site daily when the exclusionary fence is installed and while initial site clearance and rough grading occurs. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once weekly during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.3	Entire Project	Permittee	
30	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly 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. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Marina Barton (marina.barton@wildlife.ca.gov) and Headquarters CESA Program email is CESA@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 # 7.4	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
31	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
32	The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Entire Project	Permittee	
33	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or the MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
34	The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
35	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	Entire Project	Permittee	
36	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	
37	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 do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.10	Entire Project	Permittee	
38	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 6.10 of the ITP.	ITP Condition # 6.11	Entire Project	Permittee	



	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
39	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall handle all hazardous materials in accordance with federal, state, and local requirements and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.12	Entire Project	Permittee	
40	Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
41	SBKR exclusionary fencing shall be inspected by the Designated Biologist(s) at the close of each workday during initial site clearing and rough grading, and weekly once the site becomes inhabitable, as determined by CDFW, to ensure that it is in place and properly maintained for the duration of Covered Activities.	ITP Condition # 8.6	Entire Project	Permittee	
42	Designated Biologist(s) shall perform daily visual surveys for all kangaroo rat burrows, sign, and individuals within a 100-foot buffer of the Project Area prior to and during implementation of the initial ground clearing and rough grading, and when other ground-disturbing Covered Activities will occur within 50 feet of avoided habitat. If Covered Activities are occurring within 100 feet of a potential SBKR burrow, the Designated Biologist(s) shall monitor the burrow for disturbance (e.g. debris or water accumulation) a minimum of 3 times daily. If the Designated Biologist(s) suspects or identifies evidence of disturbance, the Permittee shall immediately halt Covered Activities adjacent to the affected area, make adjustments to the location, type, and/or frequency of the Covered Activities occurring to preclude further potential impacts, and increase monitoring of the burrow to ensure the adjustments were effective. The Designated Biologist(s) shall use best professional judgement regarding the monitoring period and adjustment of the work buffer surrounding the burrow. If impacts beyond those authorized in the ITP are identified or suspected, Permittee shall cease the Covered Activities potentially responsible for those offsite impacts and submit to CDFW immediately a request to amend the ITP. Results of monitoring, including photographs and a brief assessment, the type of activity occurring (e.g. grading, building, etc.), distance from the burrow, impacts measured/noted, and any buffer adjustment made shall be provided to CDFW within 24 hours.	ITP Condition # 8.7	Entire Project	Permittee	
43	Permittee shall immediately notify the Designated Biologist if a Covered Species is killed or taken 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 (909) 948-9632. The initial notification to CDFW shall include information regarding the location, species, number of animals taken and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within 2 calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take, and any other pertinent information.	ITP Condition # 7.8	Entire Project	Permittee	
44	If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
<b>POST-CONSTRUCTION</b>					
46	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 Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	
47	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.14	Post-construction and after completion of mitigation	Permittee	

ATTACHMENT 2A  
 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW)  
 HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR THIRD PARTY  
 BENEFICIARY (TPB) PROJECT APPLICANTS

The following checklist is provided to inform you of documents necessary to expedite the 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 review the real estate documents.

To: \_\_\_\_\_  
 Regional Manager, Leslie MacNair

From: \_\_\_\_\_  
 San Bernardino County Flood Control District

Phone: \_\_\_\_\_

Tracking #: \_\_\_\_\_  
 2081-2020-016-06

Project Name: \_\_\_\_\_

Enclosed is the complete package for the ☐ TPB Conservation Easement

Documents in this package include:

- ☐ Draft TPB Conservation Easement Deed with legal description stamped by a licensed surveyor, if applicable.
- ☐ Proposed Lands for Acquisition Form (PLFAF)
- ☐ Phase I Environmental Site Assessment Report    Date on report: \_\_\_\_\_  
 (An existing report may be used, but it should be less than two years old.)
- ☐ Mineral Assessment Report, if applicable.
- ☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for  
 Encumbrances, including severed mineral estates, and other easements. The title report must be less than one year 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
- ☐ Copy of Grantor's Policy of Title Insurance when proposed mitigation land was purchased, if available.
- ☐ County Assessor Parcel Map(s) for subject property
- ☐ Vicinity or Site Location Map
- ☐ 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)
- ☐ Biological Resources Report, if applicable.
- ☐ Copy of NGO or Grantee's due diligence approval letter from CDFW.

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:

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General Description of Location of Parcel(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Land value: \$ \_\_\_\_\_

For Region Use only

APPROVED \_\_\_\_

REJECTED \_\_\_\_

By: \_\_\_\_\_

Regional Manager's signature

DATE: \_\_\_\_\_

Explanation: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



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

Date: \_\_\_\_\_

TO: Regional Representative

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile:

FROM: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
_____	_____	_____	_____	_____

Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

General Description of Location of Parcel(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Land Value: \$

For Region Use Only

APPROVED \_\_\_\_

By: \_\_\_\_\_  
Regional Manager's Signature

DATE: \_\_\_\_\_

REJECTED \_\_\_\_

Region: \_\_\_\_\_

Explanation: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**[Financial institution letterhead]**

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

---

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
Post Office Box 944209  
Sacramento, CA 94244-2090  
Attn: HCPB Contract 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 CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by 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 CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. 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 CDFW as defined in paragraph 12 below. Presentation by 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 CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give 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, 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 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/Reduction, 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 CDFW, as defined in paragraph 12 below.
12. An “Authorized Representative” shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW’s Habitat Conservation Planning Branch.
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 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 CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract 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 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: \_\_\_\_\_

Telephone: \_\_\_\_\_

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 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 CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by 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. 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, CDFW has executed and delivered this Certificate as of the \_\_\_\_ day of [*month*], [*year*].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: \_\_\_\_\_

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

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [**number issued by financial institution**]  
CERTIFICATE FOR [**insert either: "CANCELLATION" or "REDUCTION"**]

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 Applicant has presented documentary evidence of compliance with the following Mitigation Requirement[(s)] referenced in paragraph 3 of the Credit: [**insert brief description of requirement(s) or requirement number(s) completed**]." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. [**Insert one of the following statements:** "CDFW therefore requests the cancellation of the Credit." **or** "CDFW therefore requests a reduction in the Principal Sum in the amount of \$\_\_\_\_\_, thereby making the new Principal Sum \$\_\_\_\_\_."]

[**Insert one of the following statements:** "Therefore, CDFW has executed and delivered this Certificate for Cancellation as of the \_\_\_\_ day of [**month**], [**year**]." **or** "Therefore, CDFW has executed and delivered this Certificate for Reduction as of the \_\_\_\_ day of [**month**], [**year**]."]

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: \_\_\_\_\_

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