

State of California
Department of Fish and Wildlife



Memorandum

Date: April 13, 2023

To: Mr. Jack Siau
California Department of Transportation
111 Grand Avenue
Oakland, CA 94612
Jack.Siau@dot.ca.gov

DocuSigned by:

Erin Chappell

From: Erin Chappell, Regional Manager

California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: Incidental Take Permit for 2081-2022-049-03 Interstate-580 Storm Damage Permanent Restoration Project, Alameda County

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

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

You are advised to keep a copy of the signed 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 Mr. Robert Stanley, Senior Environmental Scientist (Specialist), at Robert.Stanley@wildlife.ca.gov; or Mr. Wes Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Enclosures



**California Department of Fish and Wildlife
Bay-Delta Region 3
2825 Cordelia Road, Suite 100
Fairfield, CA 94534**

California Endangered Species Act
Native Plant Protection Act
Incidental Take Permit No. 2081-2022-049-03

**INTERSTATE 580 STORM DAMAGE PERMANENT RESTORATION PROJECT
(EA 04-0P120)**

I. Authority:

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

Permittee:	California Department of Transportation – District 4
Principal Officer:	Jack Siau, Project Manager
Contact Person:	Matthew Rechs, (510) 507-8673
Mailing Address:	111 Grand Avenue, Oakland, CA 94612

II. Effective Date and Expiration Date of this ITP:

This ITP shall become effective when signed by all parties and received by CDFW as described in the Notices section of this ITP. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2027**.

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

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

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

III. Project Location:

The Interstate 580 (I-580) Storm Damage Permanent Restoration Project (Project) is located on I-580 at Post Mile (PM) 4.30 within the City of Livermore, Alameda County, in the State of California (Figure 1).

IV. Project Description:

The Project includes restoring an existing storm drain system and repairing the storm-damaged embankment slide slope at PM 4.30 on the eastbound (EB) side of I-580 to preserve the structural integrity of the side slope and highway. Project activities include repairs to the failed asphalt lined drainage ditch, the installation of a down-drain from the highway shoulder to the toe-of-slope, and the installation of additional features to secure the down-drain and dissipate energy at the terminus. Rock slope protection (RSP) will be installed at the terminus of the down-drain and imported borrow material will be utilized in conjunction with the above features to secure the embankment and prevent further storm erosion. The eroded embankment also exposed a petroleum pipeline. The pipeline runs in a north-south direction and crosses under I-580 within the Project. The Project will protect the pipeline in place during construction, no additional work to the pipeline is covered under this ITP.

Drainage

The Project will replace the existing 12-inch by 30 feet corrugated metal pipe (CMP) down-drain with an 18-inch diameter by 410-foot-long CMP down-drain that begins at the highway shoulder and terminates at the bottom of the slope (Figure 2). The first 85 feet of the north side of the proposed down-drain will be buried and the remaining 325 feet will be exposed. Pipe anchor assemblies will be used to secure the down-drain on the slope. A tee-dissipator and RSP will be installed for energy dissipation at the down-drain terminus. The dissipator is 11 feet long by 8 wide feet by 1.5 feet high. Excavation of 1.5 feet of soil into the existing gully will be required to install the dissipator. A Type 1 culvert entrance taper and reconstruction of the asphalt approach transition will be required. The eroded area of the slope will be backfilled with Class 3 or better of 1,000 cubic yards of imported borrow material. The fill will be placed to the original grade of the slope. A combination of Erosion Control Best Management Practices (BMPs) will be used to stabilize the site once the restoration work on the slope and drainage is complete. These BMPs will include, but will not be limited to, the application of hydroseeding and/or hydro-mulching, applications of compost for soil improvement, rolled erosion control product (non-monofilament netting), and fiber rolls for final site stabilization.

Cold Planning

Cold planning and overlay of the asphalt pavement will be required to repair scarring from construction access. The existing asphalt concrete main-line and shoulders will be cold planed to a depth of 0.1-foot and replaced with 0.1-foot Rubberized Hot Mix Asphalt open graded friction course (RHMA-OGFC) followed by two layers of 0.2-foot-high friction surface treatment. Lane striping and rumble strips will be replaced after the overlay. Six nights are

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planned to complete the resurfacing. The RHMA-OGFC areas are limited to the immediate vicinity of the culvert location where damage to the existing facility is expected to occur.

Utilities

An existing petroleum pipeline that runs in the north-south direction through the Project site. Due to the erosion of the roadway embankment, this pipeline will be protected in place during all construction activities.

V. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ⁴

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

VI. 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. These activities include initial site preparation; heavy equipment operation; excavation; handling stockpiles and stored materials; foot traffic; grading; trenching; road resurfacing; installing CMP and the associated structures; installing signage and fencing; and relocation activities authorized by this ITP (Covered Activities).

Covered Activities may result in mortality (“kill”) of individual Covered Species by the destruction of inhabited burrows and dens; crushing by moving vehicles and equipment; and desiccation or predation along fence lines and other barriers to movement. Incidental take of individual Covered Species may also occur in the form of pursue, catch, capture, or attempt to do so of the Covered Species from relocation actions absent implementation of protective conditions. Authorized incidental take is expected to occur in Covered Species habitat areas subject to ground disturbing activities, as shown in Figure 1 (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.012 acres of habitat for the Covered Species, and temporary loss of 1.295 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include stress resulting from construction noise and vibrations and from capture and relocation; temporary and permanent habitat loss; and long-term effects due to increased pollution, increased competition for food and space, and increased vulnerability to predation.

³ Under CESA, a species may be on the list of endangered species, list of threatened species, or list of candidate species.

⁴See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable 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 Interstate 580 Storm Damage Permanent Restoration Project, Mitigated Negative Declaration (SCH No.: 2021040620) adopted by the California Department of Transportation on August 9, 2021 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the Interstate 580 Storm Damage Permanent Restoration (Biological Opinion No. 08ESMF00-2021-F-0520) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

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5. General Provisions:

- 5.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 5.2. Designated Biologist(s), Biological Monitor(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) 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(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.
- 5.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 5.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the

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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 prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. 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. 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.

- 5.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format 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 documentation is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries.** Before starting Covered Activities the 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.
- 5.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.

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- 5.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. 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.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.
- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

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

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Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

- 6.3. Compliance Monitoring.** The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed. 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.

- 6.4. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall 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 Robert Stanley, (707) 339-6534 (Robert.Stanley@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.

- 6.5. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the

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status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 6.6. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.7. Final Mitigation Report.** No later than 60 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 6.8. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured/damaged by a Project-related activity, or if a Covered Species is otherwise found dead or injured/damaged within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. Initial notification shall also be provided to the CDFW Regional Representative is Robert Stanley, Senior Environmental Scientist (Specialist), (707) 339-6534; (Robert.Stanley@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured/damaged and the ITP Number (2081-2022-049-03). 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/damage, and any other pertinent information.

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

7.1. Seasonal Work Window and Weather. Permittee shall limit Covered Activities to the period between April 15 and October 15, until the expiration of this ITP. Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. No Covered Activities shall occur during a rain event. No Covered Activities will be started if the associated erosion control measures cannot be completed prior to the onset of precipitation. No Covered Activities shall occur within 24 hours of a 40 percent chance of precipitation or greater in the National Weather Service forecast for the Project Area. Covered Activities may continue 24 hours after the rain ceases if there is less than a 40 percent chance of precipitation in the 24-hour forecast for the Project Area. No work within ponded or flowing water is authorized to occur under the conditions of the ITP.

7.1.1. Weather and Erosion Control Monitoring and Reporting. Permittee shall monitor for weather events outlined in Condition of Approval 7.1 and ensure that the appropriate erosion control measures are in place prior to the initiation of a rain event. the Designated Biologist or an approved biological monitor shall be on-site each day to monitor that erosion control material is properly installed and working as intended. If any erosion or runoff is observed the monitor shall immediately confer with the Resident Engineer to halt work in that location and re-install measures or contain the runoff until the issue can be resolved. Monthly reports of the erosion control measures in place shall be provided that include images of the measures installed. All compliance issues with this measure shall be immediately reported to CDFW.

7.2. 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 6.8. Notification shall include the name of the facility where the animal was taken.

7.3. Time of Day Work Restriction. For any activity that will clear, grub, remove existing unpaved features, excavate embankments, remove existing drainage features, construct new drainage features or excavate soil, the Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise unless approved by the CDFW Representative in writing. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume. Nightwork exceptions may be

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authorized upon written request and written approval with CDFW (via E-Mail). Nightwork requests beyond thirty (30) nights may require an amendment to this ITP.

- 7.4. Pre-Construction Surveys.** The Designated Biologist shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as excavation, grading, road widening, and operation of heavy equipment), and shall follow earthmoving equipment to look for Covered Species during initial site grading. Areas to be surveyed shall include suitable habitat features for the Covered Species such as aquatic and upland areas as well as under woody debris. Pre-construction surveys shall be done in conjunction with the installation of the temporary Covered Species construction barrier described in Condition of Approval 7.5. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g., mouth of a ground-squirrel burrow outside of the construction area) and monitor it until it is determined that it is not imperiled by predators or other dangers.
- 7.5. Temporary Covered Species Barrier.** Prior to beginning Covered Activities, Permittee shall submit plans for a temporary Covered Species barrier along the limits of temporary vehicle staging areas, initial grading areas and other disturbance areas to prevent the Covered Species from dispersing into the Project Area. The barrier shall be designed to prevent Covered Species from entering the work area, while allowing trapped individuals to leave the work area, and shall remain in place until all construction activities have been completed. The barrier shall consist of fencing at least three feet tall and buried to a depth of a minimum of four inches below the soil surface. Holes or burrows, which appear to extend under the barrier, shall be blocked to minimize Covered Species movement under the barrier. The Designated Biologist (or other trained staff during periods when no covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Vegetation shall be managed on the opposite side of the work area at least three feet outward to prevent the possibility of Covered Species from using vegetation to climb over the barrier. The vegetation barrier may be modified in consultation with CDFW. Permittee shall provide refuge opportunities, such as cover boards (2-foot x 2-foot plywood), along the silt fencing on both sides of the barrier. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary and shall be relocated by the Designated Biologist per the Relocation Plan described in Condition of Approval 7.12.
- 7.6. Small Mammal Burrow Survey and Inspections.** Prior to the initiation of construction, the Project area shall be surveyed for small mammal and other wildlife burrows. If burrows are detected, they shall be avoided to the most feasible extent practicable. Avoidance shall include excluding from the Project Area as an environmental sensitive area (ESA) using the protocol outlined in Condition of Approval 7.5. Nests, Dens and Burrows in areas of impact shall be excavated by hand to allow the

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detection and relocation of Covered Species as necessary. Powered equipment for nest, den and burrow excavation may be approved by submittal to and approval from CDFW in writing.

- 7.7. Trench Escape and Inspection.** The Designated Biologists and approved biological monitor shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for any open hole greater than one (1) foot. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a depth greater than one (1) foot. Covering methods can include steel plates, wood planks and earthen overlay. The coverings shall be constructed to make sure wildlife cannot burrow into the area being covered. If the area cannot be covered an escape ramp (earthen fill or wood plank material) shall be installed at an angle of no more than 30 degrees and inspected each day by the Designated Biologist. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Relocation Plan described in Condition of Approval 7.12. If open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.
- 7.8. Inspection of Pipes and Culverts.** All construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 7.12.
- 7.9. Vehicle and Equipment Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 7.12.
- 7.10. Notification of Non-Native Covered Species or Hybrids.** The Designated Biologist shall immediately notify CDFW if a suspected non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or Covered Species/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative.

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The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 7.11).

- 7.11. Covered Species Handling and Injury.** If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured Covered Species shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the *Restraint and Handling of Live Amphibians*, USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:
- 7.11.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately;
 - 7.11.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and United States Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.4.
- 7.12. Covered Species Relocation Plan.** The Designated Biologist(s) shall prepare a Covered Species Relocation Plan (Relocation Plan) and submit for CDFW review 60 days prior to the initiation of construction. The Relocation Plan shall include, but not be limited to, pre-activity survey methodology appropriate for the season, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. The relocation areas shall be identified by the Designated Biologist(s) based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for review and approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.
- 7.13. Permanent Lighting Prohibition.** No new or replacement of existing permanent light sources are authorized under the terms of this ITP.

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7.14. Temporary Lighting Avoidance and Minimization. All temporary Project lighting associated with construction staging areas, access routes and construction sites shall be shut down upon the completion of work each day and not used as security lighting overnight. Temporary Project lighting on the surface of the road shall be directed towards the road surface and shall not be directed into areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and various shading devices may be employed.

7.15. Rock Slope Protection - Filter Fabric Prohibition. No rock slope protection (RSP) filter fabric or similar plastic-derived materials are authorized for permanent use within the Project Area.

7.16. Concrete Avoidance and Minimization. Any concrete used shall be excluded from all aquatic features where it may come into contact with water, for a period of 30 days after it is poured/sprayed. Commercial sealants may be applied to the poured concrete surface where difficulty in excluding flow for a long period may occur. If sealant is used the Permittee shall follow the instructions as noted on the product label. As an alternative, water quality testing and analysis may be conducted in coordination with CDFW. Results shall be submitted and accepted by CDFW. All sealants shall be approved in advance, in writing by CDFW prior to their use. A concrete monitoring plan shall be provided to CDFW including details about concrete pour schedules, formwork, pour quantities, material type and spill containment measures a minimum of seven days prior to the pour. A concrete monitor shall be designated and submitted to CDFW in advance. The monitor shall be on-site at all times when active pours occur. A log shall be maintained of all concrete pours that includes the quantity, location and type of concrete used. The concrete log shall be included as part of the Monthly and Final Construction Reports.

8. Habitat Management Land Acquisition and Restoration: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from 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 protected acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall purchase 1.331 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 8.2 below. Purchase of Covered Species credits 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 1.295 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.4 below.

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8.1. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

8.1.1. Covered Species Credits. Purchase 1.331 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank: **\$98,600.00.**

8.1.2. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.4, calculated at \$2,175.00/acre for 1.331 acres: **\$2,895.00.**

8.1.3. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$40,000.00.**

8.2. Covered Species Credits. Permittee shall purchase 1.331 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 9 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project.

8.3. Bill of Sale and Payment Receipt. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or prior to Project activities or within 18 months from issuance of this ITP if Security is provided.

8.4. Habitat Restoration. Permittee shall restore on-site the 1.295 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Thirty (30) days prior to the initiation of Covered Activities, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 1.295 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur. Plantings undertaken between June and October shall include regular watering to ensure adequate growth.

Seeding placed after October 1 shall be applied by hydroseed or fiber rolls. Erosion control blankets with monofilament or woven plastic strands shall not be used. Submission in the form of a map or figure that outlines areas of impacts and areas of re-seeding that include before and after Covered Activities photos should also be

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included. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding or mulch as soon as is practical on a day mutually agreed upon with CDFW.

9. 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:

- 9.1. Master Funding Agreement.** Security for this ITP shall be governed by the Master Funding Agreement between the California Department of Fish and Wildlife and the California Department of Transportation, dated September 3, 2021.
- 9.2. Funding Memorandum.** Permittee has prepared and CDFW has approved, the project-specific Funding Memorandum required by the Master Funding Agreement and attached to this ITP as Attachment 3.
- 9.3. Security Amount.** The Security shall be in the amount of **\$141,495.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above and the Funding Memorandum.
- 9.4. Funding of the Child Expenditure Authorization (EA).** Permittee shall create and fund the Child EA with funds equivalent to the Security Amount.
- 9.5. Compliance with the Master Funding Agreement.** Permittee shall complete all requirements set forth in the Master Funding Agreement and shall at all times comply with the terms and conditions of that Agreement.

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

IX. 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.

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X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order 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, regardless of whether that species is a Covered Species under this ITP. 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 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. 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.

XI. Liability:

All terms and conditions of this ITP shall be binding upon each Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee shall be jointly and severally liable for performance of all terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of this ITP, whether committed by Permittees or any person acting on behalf of one or more Permittees, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more Permittees to comply with any term, condition, or obligation herein shall be deemed a failure to comply by all Permittees.

XII. 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.

XIII. Notices:

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by 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 (2081-2022-049-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Erin Chappell, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100, Fairfield, CA 94534
Telephone (707) 428-2002
R3CESA@wildlife.ca.gov

and a copy to:

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

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

Robert Stanley, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 339-6534
Robert.Stanley@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

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 California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Interstate 580 Storm Damage Permanent Restoration Project Mitigated Negative

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Declaration and Initial Study (SCH No.: 2021040620) dated April, 2021 that the California Department of Transportation adopted for the Interstate 580 Storm Damage Permanent Restoration Project on August 9, 2021. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XV. 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, Mitigated Negative Declaration Interstate 580 Storm Damage Permanent Restoration Project, United States Fish and Wildlife Service Biological Opinion, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the [protection and management in perpetuity of 3.331 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;

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

XVI. Attachments:

FIGURE 1	Project Location Map
FIGURE 2	Project Impact Map
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Master Funding Agreement Memorandum

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

ON 4/13/2023.

DocuSigned by:

Erin Chappell

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Erin Chappell, Regional Manager
Bay Delta Region

ACKNOWLEDGMENT

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

DocuSigned by:

Jack Siau

By:

38172784F42C448...

Date: 4/27/2023

Printed Name: Jack Siau

Title: Project Manager

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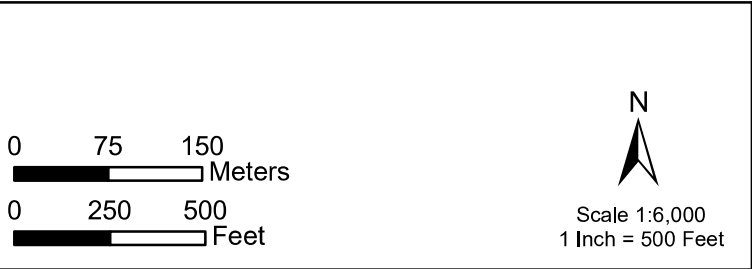
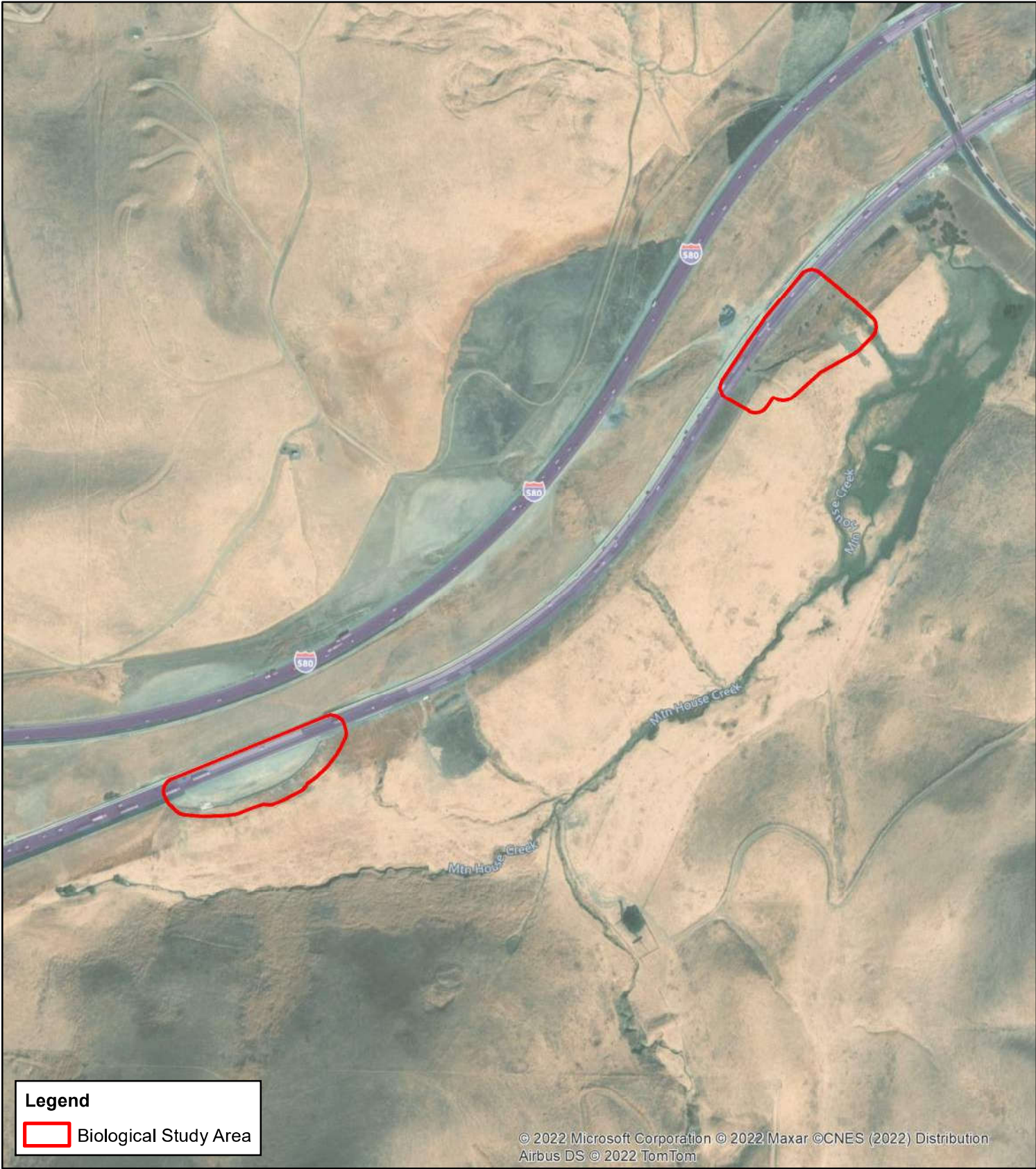


Figure 2: Biological Study Area
0P120 I-580 Storm Damage
Permanent Restoration
Alameda County

*Draft Environmental Document:
Interstate 580 Storm Damage Permanent Restoration Project*

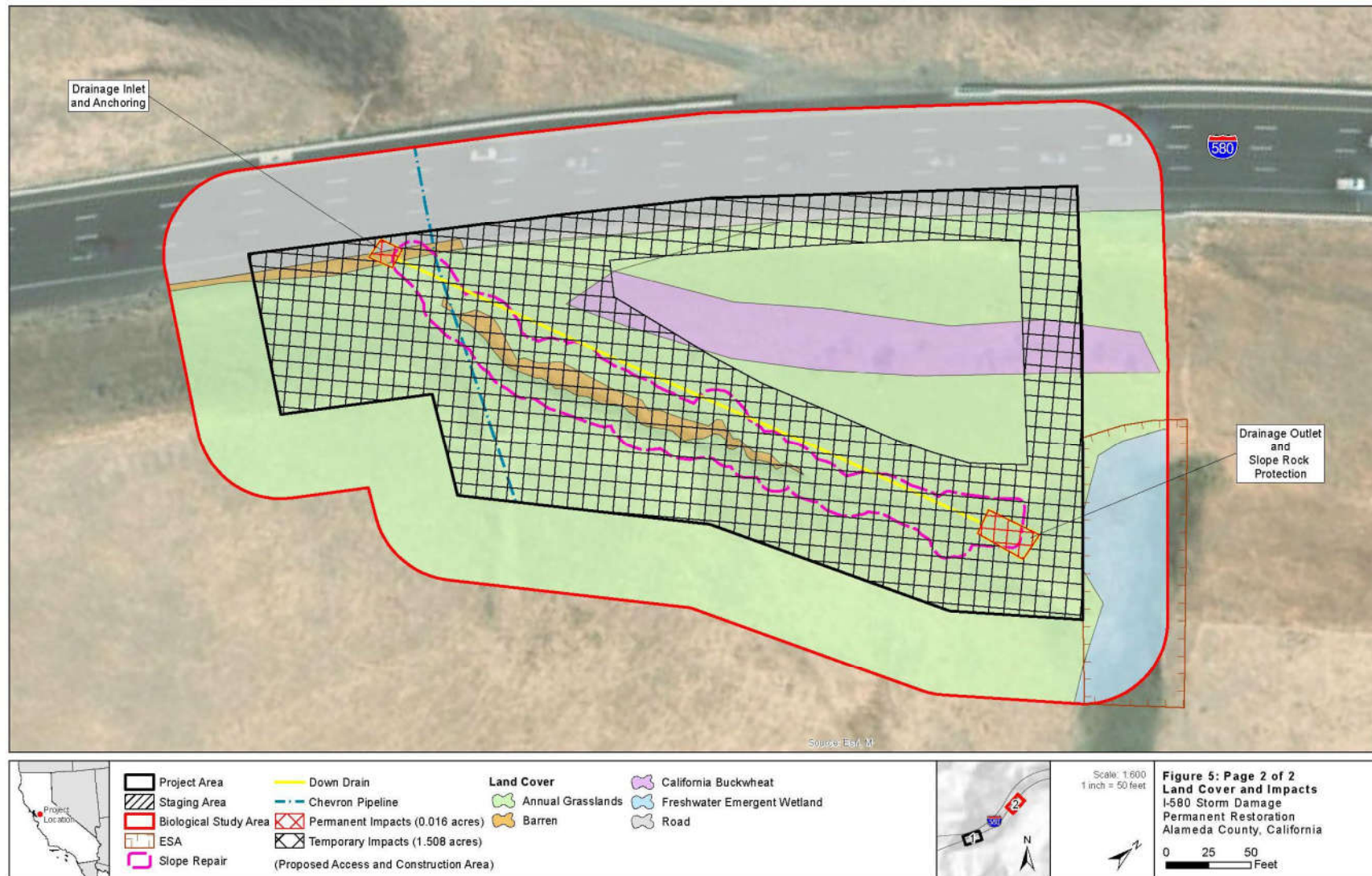


Figure 5: Land Cover Types and Wetlands, page 2

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT NO. 2081-2022-049-03**

PERMITTEE: California Department of Transportation – District 4

PROJECT: Interstate 580 Permanent Storm Damage Restoration Project

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<p>Designated Biologist(s), Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) 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(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.</p> <p>Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.</p>	ITP Condition # 5.2 and 5.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.				
4	Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Delineation of Property Boundaries. Before starting Covered Activities the Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in that area.	ITP Condition # 5.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
7	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<p>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 from 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 protected acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall purchase 1.331 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 8.2 below. Purchase of Covered Species credits 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</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	on-site 1.295 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.4 below.				
10	<p>Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <p>Covered Species Credits. Purchase 1.331 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank: \$98,600.00.</p> <p>Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.4, calculated at \$2,175.00/acre for 1.331 acres: \$2,895.00.</p> <p>All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$40,000.00.</p> <p>OR:</p>	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
11	Covered Species Credits. Permittee shall purchase 1.331 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 9 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
12	Bill of Sale and Payment Receipt. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or prior to Project activities or within 18 months from issuance of this ITP if Security is provided.	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
13	Habitat Restoration. Permittee shall restore on-site the 1.295 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Thirty (30) days prior to the initiation of Covered Activities, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 1.295 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time	ITP Condition # 8.4	30 Days Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>of year for seeding to occur. Plantings undertaken between June and October shall include regular watering to ensure adequate growth.</p> <p>Seeding placed after October 1 shall be applied by hydroseed or fiber rolls. Erosion control blankets with monofilament or woven plastic strands shall not be used. Submission in the form of a map or figure that outlines areas of impacts and areas of re-seeding that include before and after Covered Activities photos should also be included. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding or mulch as soon as is practical on a day mutually agreed upon with CDFW.</p>				
14	<p>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:</p> <p>Master Funding Agreement. Security for this ITP shall be governed by the Master Funding Agreement between the California Department of Fish and Wildlife and the California Department of Transportation, dated September 3, 2021.</p> <p>Funding Memorandum. Permittee has prepared and CDFW has approved, the project-specific Funding Memorandum required by the Master Funding Agreement and attached to this ITP as Attachment 3.</p> <p>Security Amount. The Security shall be in the amount of \$141,495.00. This amount is based on the cost estimates identified in Condition of Approval 8.1 above and the Funding Memorandum.</p> <p>Funding of the Child Expenditure Authorization (EA). Permittee shall create and fund the Child EA with funds equivalent to the Security Amount.</p> <p>Compliance with the Master Funding Agreement. Permittee shall complete all requirements set forth in the Master Funding Agreement and shall at all times comply with the terms and conditions of that Agreement.</p> <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
15	Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall 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 Robert Stanley, (707) 339-6534 (Robert.Stanley@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 # 6.4	Entire Project	Permittee	
16	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.5	Entire Project	Permittee	
17	CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 6.6	Entire Project	Permittee	
18	Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if 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 follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.	ITP Condition # 6.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p>Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to:</p> <p>minimize incidental take of the Covered Species; prevent unlawful take of species; check for compliance with all measures of this ITP; check all exclusion zones; and ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.</p> <p>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.</p>	ITP Condition # 6.3	Entire Project	Permittee	
20	<p>Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format 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 documentation is available for review at the Project site upon request by CDFW.</p>	ITP Condition # 5.5	Entire Project	Permittee	
21	<p>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.</p>	ITP Condition # 5.8	Entire Project	Permittee	
22	<p>Project Access. Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. 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.</p>	ITP Condition # 5.11	Entire Project	Permittee	
23	<p>Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.</p>	ITP Condition # 5.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	Hazardous Waste. Permittee shall immediately stop and following pertinent State and federal statutes and regulations arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.13	Entire Project	Permittee	
25	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project [and mitigation lands under Permittee control], and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 5.14	Entire Project	Permittee	
26	<p>Seasonal Work Window and Weather. Permittee shall limit Covered Activities to the period between April 15 and October 15, until the expiration of this ITP. Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. No Covered Activities shall occur during a rain event. No Covered Activities will be started if the associated erosion control measures cannot be completed prior to the onset of precipitation. No Covered Activities shall occur within 24 hours of a 40 percent chance of precipitation or greater in the National Weather Service forecast for the Project Area. Covered Activities may continue 24 hours after the rain ceases if there is less than a 40 percent chance of precipitation in the 24-hour forecast for the Project Area. No work within ponded or flowing water is authorized to occur under the conditions of the ITP.</p> <p>Weather and Erosion Control Monitoring and Reporting. Permittee shall monitor for weather events outlined in Condition of Approval 7.1 and ensure that the appropriate erosion control measures are in place prior to the initiation of a rain event. the Designated Biologist or an approved biological monitor shall be on-site each day to monitor that erosion control material is properly installed and working as intended. If any erosion or runoff is observed the monitor shall immediately confer with the Resident Engineer to halt work in that location and re-install measures or contain the runoff until the issue can be resolved. Monthly reports of the erosion control measures in place shall be provided that include images of the measures installed. All compliance issues with this measure shall be immediately reported to CDFW.</p>	ITP Condition # 7.1	Entire Project	Permittee	
27	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 6.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 7.2	Entire Project	Permittee	
28	Time of Day Work Restriction. For any activity that will clear, grub, remove existing unpaved features, excavate embankments, remove existing drainage features, construct new drainage features or excavate soil, the Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise unless approved by the CDFW Representative in writing. The Permittee shall use sunrise and sunset times	ITP Condition # 7.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume. Nightwork exceptions may be authorized upon written request and written approval with CDFW (via E-Mail). Nightwork requests beyond thirty (30) nights may require an amendment to this ITP.				
29	Pre-Construction Surveys. The Designated Biologist shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as excavation, grading, road widening, and operation of heavy equipment), and shall follow earthmoving equipment to look for Covered Species during initial site grading. Areas to be surveyed shall include suitable habitat features for the Covered Species such as aquatic and upland areas as well as under woody debris. Pre-construction surveys shall be done in conjunction with the installation of the temporary Covered Species construction barrier described in Condition of Approval 7.5. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g., mouth of a ground-squirrel burrow outside of the construction area) and monitor it until it is determined that it is not imperiled by predators or other dangers.	ITP Condition # 7.4	Entire Project	Permittee	
30	Temporary Covered Species Barrier. Prior to beginning Covered Activities, Permittee shall submit plans for a temporary Covered Species barrier along the limits of temporary vehicle staging areas, initial grading areas and other disturbance areas to prevent the Covered Species from dispersing into the Project Area. The barrier shall be designed to prevent Covered Species from entering the work area, while allowing trapped individuals to leave the work area, and shall remain in place until all construction activities have been completed. The barrier shall consist of fencing at least three feet tall and buried to a depth of a minimum of four inches below the soil surface. Holes or burrows, which appear to extend under the barrier, shall be blocked to minimize Covered Species movement under the barrier. The Designated Biologist (or other trained staff during periods when no covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Vegetation shall be managed on the opposite side of the work area at least three feet outward to prevent the possibility of Covered Species from using vegetation to climb over the barrier. The vegetation barrier may be modified in consultation with CDFW. Permittee shall provide refuge opportunities, such as cover boards (2-foot x 2-foot plywood), along the silt fencing on both sides of the barrier. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary and shall be relocated by the Designated Biologist per the Relocation Plan described in Condition of Approval 7.12.	ITP Condition # 7.5	Entire Project	Permittee	
31	Small Mammal Burrow Survey and Inspections. Prior to the initiation of construction, the Project area shall be surveyed for small mammal and other wildlife burrows. If burrows are detected, they shall be avoided to the most feasible extent practicable. Avoidance shall include excluding from the Project Area as an environmental sensitive area (ESA) using the protocol outlined in Condition of Approval 7.5. Nests, Dens and Burrows in areas of impact shall be excavated by hand to allow the detection and relocation of Covered Species as necessary. Powered	ITP Condition # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	equipment for nest, den and burrow excavation may be approved by submittal to and approval from CDFW in writing.				
32	Trench Escape and Inspection. The Designated Biologists and approved biological monitor shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for any open hole greater than one (1) foot. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a depth greater than one (1) foot. Covering methods can include steel plates, wood planks and earthen overlay. The coverings shall be constructed to make sure wildlife cannot burrow into the area being covered. If the area cannot be covered an escape ramp (earthen fill or wood plank material) shall be installed at an angle of no more than 30 degrees and inspected each day by the Designated Biologist. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Relocation Plan described in Condition of Approval 7.12. If open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.	ITP Condition # 7.7	Entire Project	Permittee	
33	Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 7.12.	ITP Condition # 7.8	Entire Project	Permittee	
34	Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 7.12.	ITP Condition # 7.9	Entire Project	Permittee	
35	Notification of Non-Native Covered Species or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected non-native barred tiger salamander (<i>Ambystoma tigrinum mavortium</i>) or Covered Species/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW.	ITP Condition # 7.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 7.11).				
36	<p>Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured Covered Species shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the <i>Restraint and Handling of Live Amphibians</i>, USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:</p> <p>If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately;</p> <p>If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and United States Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.4.</p>	ITP Condition # 7.11	Entire Project	Permittee	
37	Covered Species Relocation Plan. The Designated Biologist(s) shall prepare a Covered Species Relocation Plan (Relocation Plan) and submit for CDFW review 60 days prior to the initiation of construction. The Relocation Plan shall include, but not be limited to, pre-activity survey methodology appropriate for the season, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. The relocation areas shall be identified by the Designated Biologist(s) based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for review and approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.	ITP Condition # 7.12	Entire Project	Permittee	
38	Permanent Lighting Prohibition. No new or replacement of existing permanent light sources are authorized under the terms of this ITP.	ITP Condition # 7.13	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	Temporary Lighting Avoidance and Minimization. All temporary Project lighting associated with construction staging areas, access routes and construction sites shall be shut down upon the completion of work each day and not used as security lighting overnight. Temporary Project lighting on the surface of the road shall be directed towards the road surface and shall not be directed into areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and various shading devices may be employed.	ITP Condition # 7.14	Entire Project	Permittee	
40	Rock Slope Protection - Filter Fabric Prohibition. No rock slope protection (RSP) filter fabric or similar plastic-derived materials are authorized for permanent use within the Project Area.	ITP Condition # 7.15	Entire Project	Permittee	
41	Concrete Avoidance and Minimization. Any concrete used shall be excluded from all aquatic features where it may come into contact with water, for a period of 30 days after it is poured/sprayed. Commercial sealants may be applied to the poured concrete surface where difficulty in excluding flow for a long period may occur. If sealant is used the Permittee shall follow the instructions as noted on the product label. As an alternative, water quality testing and analysis may be conducted in coordination with CDFW. Results shall be submitted and accepted by CDFW. All sealants shall be approved in advance, in writing by CDFW prior to their use. A concrete monitoring plan shall be provided to CDFW including details about concrete pour schedules, formwork, pour quantities, material type and spill containment measures a minimum of seven days prior to the pour. A concrete monitor shall be designated and submitted to CDFW in advance. The monitor shall be on-site at all times when active pours occur. A log shall be maintained of all concrete pours that includes the quantity, location and type of concrete used. The concrete log shall be included as part of the Monthly and Final Construction Reports.	ITP Condition # 7.16	Entire Project	Permittee	
42	Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured/damaged by a Project-related activity, or if a Covered Species is otherwise found dead or injured/damaged within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. Initial notification shall also be provided to the CDFW Regional Representative is Robert Stanley, Senior Environmental Scientist (Specialist), (707) 339-6534; (Robert.Stanley@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured/damaged and the ITP Number (2081-2022-049-03). 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/damage, and any other pertinent information.	ITP Condition # 6.8	Entire Project	Permittee	
43	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that is not in compliance with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species, or a species not covered by the ITP.	ITP Condition # 6.3	Entire Project	CDFW	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
POST-CONSTRUCTION					
44	Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.15	Post-construction	Permittee	
45	Final Mitigation Report. No later than 60 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 6.7	Post-construction and after completion of mitigation	Permittee	



Department of Fish and Wildlife

BIOLOGIST RESUME COVER SHEET

SUBMIT EACH RESUME AS A SEPARATE DOCUMENT**Number of Resumes Included in Transmittal:** _____

Name	Requested Role(s) ¹	Species/Resource(s)

¹ Requested roles correspond to the biological staffing requirements indicated in the Lake and Streambed Alteration (LSA) Agreement or California Endangered Species Act Incidental Take Permit (ITP). Roles may include a "Qualified Biologist" or "Designated Biologist" with the necessary experience to survey for special status species, or a "Biological Monitor" with the necessary experience to monitor construction activities for special status species. An individual may request more than one role.



Department of Fish and Wildlife

BIOLOGIST RESUME FORM

This form requests information about the qualifications of the Qualified Biologist, Designated Biologist and Biological Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW).

Completing this form will ensure the receipt of adequate information and expedite CDFW review of qualifications.

SECTION I. NAME AND CONTACT INFORMATION

Name:		Title:	
Company Name & Address:		Phone:	
		Email:	

SECTION II. EDUCATION

College/University & Degree Type Related to Natural Resource Science:	
Other Relevant Workshops & Training:	

SECTION III. ROLE(S) AND PERMIT REQUIREMENTS

Requested Role(s):	
Relevant LSA Agreement Measures or ITP Conditions ² :	

SECTION IV. SPECIES AND RESOURCE EXPERIENCE – SUMMARY

This section summarizes experience by special status species and other resource. Use one row for each species or other resource where surveys or special protections are required in the CESA ITP or LSA Agreement for which biologist approval is requested.³ If more space is needed, add rows to this table. Provide details in Section 5.

Species or Resource	Number of Field Seasons & Hours, Life Stages Observed <i>Provide project details in Section 5</i>	Life History Knowledge <i>Describe formal workshops & training with dates, or informal training details</i>	CDFW SCP, MOU, & USFWS 10a1a Authorization Number & Authorized Activities <i>This form does not fulfill SCP, MOU, & USFWS 10a1a reporting requirements</i>
Insert Species or Resource 1	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 2	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 3	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:

² List all measures and conditions from the LSA Agreement or ITP requiring biological staff (i.e., Qualified Biologist, Designated Biologist, or Biological Monitor).

³ Often LSA Agreements/ITPs require surveys and other protections for multiple species and other resources. Include only those for which the biologist has experience and is requesting approval.

SECTION V. SPECIES AND RESOURCE EXPERIENCE – DETAILS

This section details experience from the three most recent and relevant projects for each species and resource identified in Section 4. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

A. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s) ⁴ :	
Survey Type(s) ⁵ :		Construction Monitoring ⁶ :	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB ⁷ (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

⁴ Insert the role as described in the associated LSA Agreement, ITP or other agency permit. If these permits were not issued, describe the role based on the duties, e.g., "lead biologist with handling authorization" or "biological monitor."

⁵ For example, pre-construction survey or description of the protocol or guideline followed.

⁶ Include the number of days and describe the types of activities monitored (e.g., heavy equipment operation).

⁷ CNDDDB is the abbreviation for California Natural Diversity Database.

Project Name:**LSA Agreement/ITP Number(s):**

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

B. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

Project Name:**LSA Agreement/ITP Number(s):**

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

C. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

Project Name:**LSA Agreement/ITP Number(s):**

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

MASTER FUNDING AGREEMENT

This MASTER FUNDING AGREEMENT (AGREEMENT) is made by and between the California Department of Transportation (CALTRANS) and California Department of Fish and Wildlife (CDFW). CALTRANS and CDFW shall be collectively referred to herein as the "PARTIES" and individually as a "PARTY."

RECITALS

1. CALTRANS intends to construct future transportation projects for the State Highway System (individually a "PROJECT" and collectively "PROJECTS"). Pursuant to California Fish and Game Code sections 2080.1 and 2081, CDFW can issue CALTRANS, respectively, a Consistency Determination or an Incidental Take Permit for CALTRANS PROJECTS. The Incidental Take Permit and/or Consistency Determination are hereinafter referred to individually as a "TAKE AUTHORIZATION" and collectively as "TAKE AUTHORIZATIONS."
2. CDFW's issuance of TAKE AUTHORIZATIONS for CALTRANS PROJECTS is conditioned on CALTRANS implementing certain mitigation and monitoring measures and requirements hereinafter referred to collectively as "MITIGATION REQUIREMENTS."
3. Unless CALTRANS satisfies the MITIGATION REQUIREMENTS prior to incurring impacts from a PROJECT, the TAKE AUTHORIZATIONS require that CALTRANS set aside funds to satisfy the cost CDFW has determined will be necessary to satisfy the MITIGATION REQUIREMENTS for the PROJECT, in the event of a default by CALTRANS. These funds shall be referred to herein as "SECURITY FUNDS."
4. As set forth in applicable TAKE AUTHORIZATIONS condition(s), CALTRANS is required to establish and maintain the SECURITY FUNDS in an amount, form, and manner acceptable to CDFW.
5. The PARTIES desire to enter into this AGREEMENT to establish the manner in which CALTRANS will maintain SECURITY FUNDS for the proper implementation and completion of MITIGATION REQUIREMENTS for CALTRANS PROJECTS. The specific purpose of and background for this AGREEMENT are included in the summary of CALTRANS' project programming and funding procedures set forth in Exhibit "A," attached hereto and incorporated herein by reference.

OPERATIVE PROVISIONS

NOW THEREFORE, in consideration of the covenants and conditions set forth herein, the PARTIES agree as follows:

1. Effective Date.

This AGREEMENT is effective as of the date CALTRANS and CDFW have executed this AGREEMENT.

2. Funding Memorandum

As a condition to CDFW's issuance of a final TAKE AUTHORIZATION, CALTRANS will provide a completed Funding Memorandum to CDFW in the form of Exhibit "B," attached hereto and incorporated herein by reference, to document the manner in which CALTRANS will provide SECURITY FUNDS (the "FUNDING MEMORANDUM"). The FUNDING MEMORANDUM will include the following:

- A. The name of the project;
- B. A brief project description;
- C. The incidental take permit number or consistency determination number;
- D. The CALTRANS parent project expense authorization (EA) number;
- E. The CALTRANS child project EA (Child EA) number;
- F. The estimated costs of the MITIGATION REQUIREMENTS; and
- G. The total amount required for the SECURITY FUNDS
- H. Subject to the Budget Act provisions of this AGREEMENT, a statement that the funds have been budgeted, as well as allocated, and will not be re-allocated to another element of the PROJECTS, or to other PROJECTS, or for any other purpose.

3. Process for CALTRANS SECURITY FUNDS.

- A. In order to meet the SECURITY FUNDS requirement of the TAKE AUTHORIZATIONS, CALTRANS shall create and program a separate and unique project expense authorization identified as a "Child EA" which is more fully described in Exhibit "A." After the Child EA is established, CALTRANS will transfer the SECURITY FUNDS, once allocated for PROJECTS, to the Child EA.
- B. CALTRANS agrees to use the SECURITY FUNDS in the Child EA exclusively to satisfy MITIGATION REQUIREMENTS required by TAKE AUTHORIZATIONS.
- C. In the event CDFW determines that CALTRANS is not satisfying MITIGATION REQUIREMENTS, the PARTIES will resolve any issues through the internal dispute resolution process described in Exhibit "C," attached hereto and incorporated herein by reference.
- D. CDFW acknowledges and agrees that the provisions of this AGREEMENT constitute advance written approval of a security form by CDFW's Office of the General Counsel for all CALTRANS TAKE AUTHORIZATIONS statewide.
- E. If after exhausting the internal resolution process described in Exhibit "C." the PARTIES fail to resolve issues relating to MITIGATION REQUIREMENTS and SECURITY FUNDING, CDFW will notify CALTRANS, in writing, of its intent to obtain the unused remaining

SECURITY FUNDS, and CALTRANS shall take all necessary actions to transfer all remaining, unencumbered SECURITY FUNDS to CDFW within 45 days.

F. CDFW and CALTRANS will work together in good faith until MITIGATION REQUIREMENTS are completed. CALTRANS will follow processes described in Exhibit "A" to program additional funds, if needed, to complete MITIGATION REQUIREMENTS. In the event CDFW obtains the remaining unencumbered SECURITY FUNDS, pursuant to subsection E above, CALTRANS will work in good faith to provide CDFW with access to any mitigation lands within a CALTRANS right of way or otherwise under the control of CALTRANS, and to facilitate the timely completion of the MITIGATION REQUIREMENTS, and CDFW will work in good faith to obtain all necessary approvals from CALTRANS to access the mitigation lands and complete the MITIGATION REQUIREMENTS in accordance with CALTRANS policies and practices for its lands.

G. If CDFW obtains the remaining unencumbered SECURITY FUNDS, pursuant to subsection E above, and those funds are insufficient to complete the MITIGATION REQUIREMENTS, CALTRANS agrees to replenish the Child EA, and CDFW and CALTRANS agree to meet to identify appropriate sources of funding to replenish the Child EA for the timely completion of the MITIGATION REQUIREMENTS.

4. Budget Contingency Clause

The PARTIES mutually agree that if the Budget Act of the current year and/or any subsequent years covered under this AGREEMENT does not appropriate sufficient funds for the funding required under this AGREEMENT, this AGREEMENT shall be of no further force and effect. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of the FUNDING SECURITY, CALTRANS shall have the option to either terminate this AGREEMENT without liability or offer an AGREEMENT amendment to reflect the reduced amount. In addition, CALTRANS' obligations under this AGREEMENT are subject to Legislative appropriation and allocation by the California Transportation Commission (CTC).

In the event this AGREEMENT is terminated due to the Legislature's failure to appropriate sufficient funds or CALTRANS exercises its option to terminate this AGREEMENT after a reduction or deletion of funds, CALTRANS shall remain responsible for funding and completing the MITIGATION REQUIREMENTS, and CALTRANS and CDFW shall agree to meet and to work in good faith to identify appropriate sources of funding to complete the MITIGATION REQUIREMENTS.

5. Termination

Either PARTY may terminate this AGREEMENT upon sixty (60) days' prior written notice to the other PARTY. The PARTIES agree that, if this AGREEMENT is terminated for any reason, prior to the effective date of the termination CALTRANS shall provide alternative performance security to CDFW, in a form to be approved in advance in writing by CDFW's Office of General Counsel, for all PROJECTS for which the MITIGATION REQUIREMENTS have not been completed.

6. Retention of Records/Audits

The PARTIES shall maintain as public records all books, documents, papers, accounting records and other evidence pertaining to the performance of this AGREEMENT, including but not limited to, the costs of administering this AGREEMENT. The PARTIES shall make such materials available at their respective offices at all reasonable times and for three years from the date CALTRANS has satisfied its MITIGATION REQUIREMENTS and obligations under this AGREEMENT. The PARTIES, State Auditor, Federal Highway Administration, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part), shall have access to any party's books, records, and documents that are pertinent for audits and examinations. Excerpts, transactions, and copies thereof shall be furnished upon request.

7. Applicable laws.

All applicable laws and regulations relating to the use of federal or state funds shall apply notwithstanding other provisions of this AGREEMENT.

8. Amendments

Except as provided in Section 14 regarding Notices, this AGREEMENT may only be amended by written agreement, executed by all PARTIES.

9. Severability

In case any part, term, portion, or provision of this AGREEMENT is or shall be invalid, illegal, or unenforceable, the remaining parts, terms, portions, and provisions shall remain in full force and effect.

10. Miscellaneous

Nothing within the provisions of this AGREEMENT is intended to create duties, or obligations to, or rights in third parties not a party to this AGREEMENT, or to affect the legal liability of either party to the AGREEMENT by imposing any standard of care different from the standard of care imposed by law.

11. Entire Agreement

This AGREEMENT reflects the entire AGREEMENT of the PARTIES with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written understandings, statements, representations, and promises.

12. Authority

Each of the PARTIES represents and warrants that each of the persons executing this AGREEMENT on its behalf has full and complete legal authority to do so and thereby binds the party to this AGREEMENT.

13. Counterparts

This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. CDFW and CALTRANS agree that digital signatures are acceptable for execution of this AGREEMENT.

14. Notices

Notices made or required under this AGREEMENT shall be directed to the CALTRANS and CDFW representative as follows:

CDFW:

Chad Dibble, Deputy Director
Ecosystem Conservation Division
Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
916-653-6956
chad.dibble@wildlife.ca.gov

CALTRANS:

Philip J. Stolarski, Chief
Division of Environmental Analysis
Department of Transportation
1120 N St, MS 27
Sacramento, CA 95814
916-206-7254
phil.stolarski@dot.ca.gov

The CALTRANS and CDFW representatives during the term of this AGREEMENT may be changed by advance written notice without the necessity of an amendment to this AGREEMENT.

15. Electronic Signatures.

Electronic signatures of the PARTIES, whether digital or encrypted, are intended to authenticate this AGREEMENT and shall have the same force and effect as manual signatures for this AGREEMENT.

“CALTRANS”

STATE OF CALIFORNIA

Department of Transportation

By: 

Director

“CDFW”

STATE OF CALIFORNIA

Department of Fish and Wildlife

By: See following page

Director

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“CALTRANS”

STATE OF CALIFORNIA

Department of Transportation

By: See prior page
Toks Omishakin, Director

“CDFW”

STATE OF CALIFORNIA

Department of Fish and Wildlife

By:  9/3/21
Charlton H. Bonham, Director

EXHIBIT A TO MASTER FUNDING AGREEMENT

CALTRANS PROJECT PROGRAMMING AND FUNDING PROCEDURES

All PROJECTS begin by CALTRANS preparing a Project Initiation Document (PID) that contains a purpose and need statement, defined project scope, capital and support cost estimate for each alternative, and project work-schedule. The cost estimate includes the projected costs of environmental studies, mitigation, and monitoring to meet anticipated MITIGATION REQUIREMENTS. The California Transportation Commission (CTC) then allocates project environmental analysis and preliminary project design funds based upon the project scope and cost estimates in the PID, including costs for anticipated MITIGATION REQUIREMENTS. CALTRANS can then allocate the CTC-approved funds into a programmed Expense Authorization (EA). MITIGATION REQUIREMENTS cost estimates in the PID are preliminary and subject to change, as a project's impacts and required mitigation are not definite until completion of subsequent engineered designs, environmental studies, and consultation with CDFW and other state and federal resource agencies.

The next phase of PROJECTS is the Project Approval and Environmental Document (PA&ED) component in which a Final Project Report and Final Environmental Document are completed. During this phase, CALTRANS studies each alternative and develops appropriate mitigation in consultation with both federal and state resource agencies, including CDFW, to maximize avoidance and minimization and identify effective mitigation. This process and its results are documented in the Final Environmental Document and incorporated into the Project Report. By signing the Final Project Report, the CALTRANS District Director establishes the full project description which integrates the mitigation measures as a commitment of the overall project and verifies that the resources necessary to complete the project and MITIGATION REQUIREMENTS are included in the estimated project costs. The CTC then allocates the appropriate funding for the final design and construction of the project based on the Final Environmental Document and the Final Project Report. Before allocating the funds, however, the CTC determines that the project meets its stated purpose and need and that the funds are sufficient to complete the project, including all commitments for avoidance, minimization, mitigation, and monitoring. These funds are then allocated for the anticipated programming/construction year.

The next phase for PROJECTS in the CALTRANS project development process is the preparation of plans, specifications and estimates (PS&E) necessary for the bidding process. The PS&E package is premised on the decisions and commitments in the Final Environmental Document and Final Project Report. At the completion of the PS&E phase, and prior to listing the contract for bid, the CALTRANS District Environmental Division Chief certifies that the PS&E package incorporates all environmental commitments. At that time, an Environmental Commitment Tracking Record is created to verify compliance with the environmental commitments throughout the life of the project.

As PROJECTS develop and are further evaluated during the PA&ED and PS&E phases, a decision is made regarding whether PROJECTS will result in the take of CESA-listed or candidate species. Plans to avoid, minimize, mitigate, and monitor the CESA-listed species impacts are made through early coordination with CDFW. CALTRANS and CDFW staff determine the preferred mitigation and CALTRANS may include this as a proposal to CDFW in its TAKE AUTHORIZATIONS applications or within the federal ESA consultation for take authorization to be used with TAKE AUTHORIZATIONS. The final project avoidance, minimization, and MITIGATION REQUIREMENTS and SECURITY FUNDS requirements are then delivered in the TAKE AUTHORIZATIONS by CDFW or within the federal ESA take authorization to be used for TAKE AUTHORIZATIONS.

CALTRANS is committed to fulfilling environmental commitments for PROJECTS. This includes programming sufficient resources to meet MITIGATION REQUIREMENTS. MITIGATION REQUIREMENTS may be encountered prior to impacts of CESA-listed species, concurrently with, or beyond project construction within the State's right-of-way or located outside the State's right-of-way.

With approval from the CTC, CALTRANS can apportion funding from a parent project EA and program into a new EA, referred to for accounting purposes as a "Child EA." The Child EA is used for mitigation efforts that require work after CALTRANS has accepted the contract and construction work. The Child EA is programmed to maintain adequate funding for all mitigation acquisition, construction, monitoring, maintenance, and adaptive management activities under TAKE AUTHORIZATIONS issued for the parent project. The unique Child EA establishes a dedicated fund to cover the cost of MITIGATION REQUIREMENTS that extend beyond project completion and acceptance and until CDFW has determined CALTRANS has satisfied the MITIGATION REQUIREMENTS.

When programming and/or funding adjustments are necessary during the life of PROJECTS, the project change control process must be followed by CALTRANS. A request for change is reviewed by CALTRANS Headquarters Management, including the Environmental Division Chief, for consistency with environmental commitments. If the proposed change request includes changing environmental commitments, it must be documented with the consultation and concurrence of the applicable resource agencies, and, if necessary, additional environmental studies and documentation. The changes to project budgets created by the project change control process and the creation and programming of a Child EA must be approved by the CTC.

At the construction phase of PROJECTS, the Resident Engineer monitors the progress of the project including compliance with environmental commitments. Prior to the closure of PROJECTS, the Project Manager with assistance from the district Environmental Construction Liaison reviews all aspects of the PROJECTS for compliance with MITIGATION REQUIREMENTS for TAKE AUTHORIZATIONS. After closure of the primary construction phase of PROJECTS, funding within a Child EA

ensures additional work to complete MITIGATION REQUIREMENTS exists beyond the life of the primary construction contract.

If CDFW has determined that CALTRANS has not met its MITIGATION REQUIREMENTS for TAKE AUTHORIZATIONS, the PARTIES shall use the internal resolution process described in Exhibit "C."

EXHIBIT B TO MASTER FUNDING AGREEMENT
FUNDING MEMORANDUM

1. Name of Project:
2. Brief Description of the Project:
3. Incidental Take Permit Number or Consistency Determination Number:
4. CALTRANS parent project EA and program funding source:
5. CALTRANS Child EA and program funding source:
6. Estimated costs of Mitigation (including monitoring):
7. Total amount for security (combined total of estimated costs of Mitigation and Monitoring):

The funds for this project have been currently budgeted and allocated, for the project as described above. The funds that have been allocated for mitigation and monitoring will not be re-allocated to another element of the project or expended for any purpose other than completing the mitigation and monitoring requirements.

Signature_____

Date _____

Instruction: This form is to be transmitted by CALTRANS to CDFW with each application for an incidental take permit under Fish and Game Code section 2081, and with each request for a Consistency Determination under Fish and Game Code section 2080.1. CALTRANS personnel who signs permit shall also sign this form.

EXHIBIT C TO MASTER FUNDING AGREEMENT

INTERNAL DISPUTE RESOLUTION PROCESS

If at any time CDFW determines that Caltrans is not meeting its MITIGATION REQUIREMENTS for TAKE AUTHORIZATIONS, the PARTIES shall use the following process for resolution.

Stage	Caltrans Staff Title	DFW Staff Title	Duration of stage
1	District Assoc./Environmental Planner (NS)	Senior Environmental Scientist	10 working days
2	District Senior Environmental Planer	Senior ES (Supervisory)	10 working days
3	District Supervisory EP	Environmental Program Manager	10 working days
4	District Principal TP/Deputy Env. Planner	Regional Manager	10 working days
5	District Director/ HQ Environmental Division Chief	HQ Deputy Director for Ecosystem Conservation	10 working days
6	Director	Director	10 working days

At each stage, if the PARTIES reach an impasse and cannot resolve the disputed issue, they will document the issue(s) needing resolution and the reasons for the impasse and notify the group in the next stage of ladder. At each stage of the resolution process, all PARTIES will seek to reach agreement within 10 working days or prepare information for the next stage of resolution until the matter is resolved.