

## **MITIGATION CREDIT AGREEMENT CHECKLIST**

This MCA checklist is part of the Regional Conservation Investment Strategies Program Guidelines (Guidelines) (Fish & Game Code, § 1856(a)), as referenced in Section 5 of the Guidelines. The following checklist includes items that are required of an MCA to be considered "complete." Each item indicates the source of the requirement in the Fish and Game Code (Sections 1850 – 1860). All references apply to the subsequent nested bullets unless otherwise indicated. The organization of this checklist follows the format used in the MCA Template.

**MCA Name:**

**MCA sponsor:**

**Date submitted to CDFW:**

**Conditions for CDFW completeness review:**

1. The following minimum requirements must be met before CDFW starts a completeness review:
2. The appropriate fees have been paid (Fish & G. Code, § 1857(b)).<sup>1</sup>
3. The MCA occurs within the area of an approved RCIS that includes the requirements of Fish & G. Code, § 1856(b)(1-3).
4. If the MCA includes public lands, the public agency landowner approval letter or document is included as an attachment.
5. The MCA will not be utilized to fund or offset the costs of the design, construction, or mitigation of new Delta water conveyance facilities (Fish & G. Code, § 1855(d)).
6. The MCA Template is used, and:
  - Template edits are in track changes
  - All template language that is bracketed, bold, and italicized has been replaced with relevant information or deleted if not applicable.
7. All MCA submittals are provided as separate and clearly labeled PDFs; the MCA template is provided as a Word and PDF electronic file.

**Accessibility:**

All public draft MCA submittals are provided as PDFs that meet the Web accessibility standards of California Government Code 11135 and the U.S. Rehabilitation Act section 508.

**MCA Template:**

The following minimum requirements must be met for CDFW completeness review:

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<sup>1</sup> See the [Regional Conservation Investment Strategies Program Guidelines: Fees](#) for the current fee schedule

## Section 1

Full name of the MCA included (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798(b)(2)(A)])

## Section 2

Supporting Regional Conservation Investment Strategy (Fish & G. Code, § 1856(a))

- RCIS in which the MCA is located is identified and described

## Section 3

The MCA purpose and need are outlined along with any other objectives (Fish & G. Code, § 1856(d)).

- Identify and describe the conservation and habitat enhancement action(s) that will be implemented to measurably advance the conservation objectives of an approved RCIS that may be used to create mitigation credits, which can be used to offset compensatory mitigation requirements for impacts to focal species, non-focal species, and/or other conservation elements.

## Section 4

MCA Site and Service Area Information

- 4.1** – Property Ownership Description: Owner(s) of each MCA site (Fish & G. Code, § 1856(g)(11) and (g)(17) [referencing Fish & G. Code, § 1798(b)(2)(F)])
- 4.2** – Contact Information: Contact information for all applicable parties, including MCA sponsor, MCA site property owner(s), MCA land manager(s), conservation easement grantee or long-term durability agreement entity, endowment holder, and any contractors or consultants (Fish & G. Code, § 1856(g)(1) and (g)(17) [referencing Fish & G. Code, § 1798(b)(2)(B)]).
  - Exhibit A- Contact Information
- 4.3** – Qualifications: Qualifications of all applicable parties, including: MCA sponsor, land manager, conservation easement grantee (if applicable), endowment holder (if applicable), and any contractors, or consultants (Fish & G. Code, § 1856(g)(1)). Both the conservation easement grantee and land manager are subject to CDFW's due diligence requirement.<sup>2</sup>
  - Endowment holder provided a self-certification letter to CDFW that indicates they meet the criteria in Government Code sections 65965-65968, and they specifically meet the requirements of 65968, subdivision (e)(1-5) (Fish & G. Code, § 1856(g)(13)).
- 4.4** – Location Information: Location information to identify the MCA site(s), including size and address.

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<sup>2</sup> Information about the due diligence process is available on [CDFW's Endowments and Mitigation Land Management web page](#).

- Exhibit B – General vicinity map and site map, reference maps, including enhancement areas and a 7.5-minute United States Geological Survey map showing the proposed boundaries of the MCA.
  - Identifies public lands and permanently protected lands in the vicinity of the conservation actions or habitat enhancement actions (Fish & G. Code, § 1856(g)(8)).
  - KMZ file showing the location of the MCA site(s).
- Exhibit C- Photographs, including color aerial and ground-level photographs that reflect current conditions on the site and surrounding properties (Fish & G. Code, § 1856(g)(4) and (g)(17) [referencing Fish & G. Code, § 1798(b)(2)(E)]).
- **4.5** – Service Area: A written description and map of the service area for each credit type, including an ecological based justification for how each service area was determined (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798(b)(2)(I) and § 1798.5(a)(2)(D)])
  - Identifies overlapping mitigation banks and conservation banks approved by the department as a mitigation alternative and explains how available mitigation credits at those banks will be purchased or used lieu of, or in combination with, the mitigation credits created under the MCA or, if those available mitigation credits will not be purchased or used, why they will not be purchased or used (Fish & G. Code, § 1856(g)(6)).
  - Exhibit D – Service Area Map
    - KMZ file showing the service area for each credit type

## Section 5

### MCA Site Declarations and Review

- **5.1** - Land Use Consistency Declaration: Outline that the MCA site has not been, or is not currently being used, as mitigation; is not designated or dedicated for park or open space use; and is not designated for purposes that may be inconsistent with habitat preservation (Fish & G. Code, § 1856(f) and (g)(17) [referencing Fish & G. Code, § 1798(b)(2)(M)]).
- **5.1** - Land Use Consistency Declaration (continued): If the MCA is located within the boundary of an existing NCCP, include the NCCP implementing entity approval of the creation of the MCA credits (Fish & G. Code, § 1856(k)).
  - Exhibit E – NCCP Approval Letter (if applicable)
- **5.2** - Public Funding: Detailed description of any public funding or grants received (if applicable) (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798(b)(2)(N)]).
- **5.3** - MCA Site Inspection by CDFW: The MCA Sponsor and Land Manager allows representatives of CDFW to inspect the MCA site. The MCA will be inspected by CDFW prior to MCA approval.
- **5.4** – Tribal Resources

- Exhibit F – Tribal Resources Summary
- **5.5** – Approvals: List all permits, authorizations, and other approvals needed for the MCA.
  - Once obtained, copies of all permits, authorizations, and other approvals shall be provided to CDFW.
- **5.6** - Compliance with the California Environmental Quality Act
  - Submit all CEQA documents related to the MCA prior to MCA approval.
  - Provide the name of the Lead Agency, state clearinghouse number and type of document, and date certified.

## **Section 6**

### MCA Site Development, Management, and Operations

- **6.1**- Exhibit G – Natural Resources Evaluation, including documentation of biotic and abiotic baseline conditions, including past, current, and adjacent land uses, vegetation types, species information, topography, hydrology, and soil types (Fish & G. Code, § 1856(g)(7)).
- **6.2** –Development Plan:
  - Exhibit H – Draft Development Plan. As appropriate, a combined Development and Interim Management and Monitoring Plan may be submitted, and when preservation credits only are proposed (Fish & G. Code § 1856 (g)(5) and (g)(17) [referencing Fish & G. Code, § 1798(a)(2)(B)]).
  - Identify metrics or indicators by which the proposed conservation actions or habitat enhancement actions contribute to achieving the strategy's conservation goals and objectives that can feasibly be measured with existing technology (Fish & G. Code, § 1856(g)(10)).
- **6.3** - Exhibit I – Interim Management and Monitoring Plan (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798.5(a)(2)(B)]).
- **6.4** - Exhibit J –Long-term Management and Monitoring Plan (Fish & G. Code, § 1856(g)(14) and (g)(17) [referencing Fish & G. Code, § 1798.5(a)(2)(B)]).

## **Section 7**

### MCA Site Evaluation

- **7.1** – Exhibit K: Phase I Environmental Site Assessment, conducted no more than six months prior to the date the MCA is submitted. Performed in accordance with the American Society of Testing and Materials (ASTM) Standard E1527-13 (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798.5(a)(2)(H)]).

- **7.2** – Exhibit L: Legal Description and Plat Map.<sup>3</sup>
- **7.3** – Exhibit M: Property Assessment and Warranty.<sup>4</sup>
  - Preliminary Title Report that is less than one year old (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798(b)(2)(L)]).
- **7.4**– Exhibit N: Real Estate Instrument: CDFW's standard mitigation conservation easement (with red-line track-changes in a Word document) or another long-term durability instrument (if applicable); and an explanation of how the long-term durability of the MCA site will be ensured (Fish & G. Code, § 1856(g)(12)).
  - If the MCA occurs within an approved NCCP area, the real estate instrument must provide perpetual protection of the land in a manner consistent with the NCCP.
- **7.5** – Exhibit O: Title Insurance: Title Insurance (if applicable) or an explanation why Title Insurance is not needed.

## Section 9

### Financial Securities and Funding

- **9.1** - Security: List all securities that will be needed (e.g., construction, performance, interim management, compliance), including what time period each security will cover, the tasks, performance-based milestones, and/or performance standards that are to be covered by each security, and the proposed form and estimated value of each security (e.g., an irrevocable standby letter of credit or cash) (Fish & G. Code, § 1856(g)(17) [referencing Fish & G. Code, § 1798.5(a)(2)(G)]).
  - Exhibit P – Security Analysis
- **9.2** - Long-term Management Funding has been described as follows (Fish & G. Code, § 1856(g)(13)):
  - Ensures that the implementation of the conservation action or habitat enhancement action will be adequately funded, and that long-term protection and management of the site will be funded in accordance with Chapter 4.6 (commencing with Section 65965) of Division 1 of Title 7 of the Government Code.  
OR
  - For MCAs proposed by a state agency, other comparable funding mechanism approved by the department in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites.
    - Exhibit Q – Endowment Fund Analysis: A property analysis record or other comparable economic analysis of the

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<sup>3</sup> [CDFW's Land Survey Reference](#)

<sup>4</sup> See template PAW available on [CDFW's Conservation and Mitigation Banking Instructions and Templates web page](#) (note: replace "bank" with "MCA site" and replace "BEI" with "MCA" in the referenced templates)

