



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

**California Endangered Species Act
Incidental Take Permit No. 2081-2024-011-03**

PETALUMA RIVER BRIDGE FENDERS PROJECT (04-2Q500)

Authority:

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

Permittee:	California Department of Transportation, District 4
Principal Officer:	Lindsay Vivian, Project Manager
Contact Person:	Chris Pincetich (408) 590-4167
Mailing Address:	California Department of Transportation, District 4 111 Grand Avenue Oakland, CA 94612

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2029**.

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

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

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

Project Location:

The project is located at the Petaluma River Bridge in Marin and Sonoma counties, California, on State Route (SR) 37 at PM 14.5, from Harbor Drive to near Sears Point Road on SR 37 (Latitude 38.115330, Longitude -122.506179) (Attachment 1).

Project Description:

The California Department of Transportation (Caltrans) (Permittee) proposes to rehabilitate the bridge deck, upgrade the bridge railings, and replace the bridge fender system to meet current standards (Attachment 2). The fender system protects the bridge bents from direct impact from vessels traveling in the navigable channel of the Petaluma River, and replacement of the fenders is needed to ensure the structure is protected.

Bridge Fender System Replacement

The existing timber bridge fender system would be removed and replaced. The proposed fender system would be comprised of approximately 96 piles. The new fender system would consist of 24-inch diameter steel pipe piles and steel walers with plastic lumber sheathing. The vertical limit of the fender system would be increased to allow for the anticipated sea level rise. Navigation lighting would be upgraded to meet the current U.S. Coast Guard requirements. Work in the navigational channel would most likely be conducted using barges to replace the fender system at bents 7 and 8. The existing wood fender system would be removed by vibrating and pulling piles from a barge-mounted crane. If complete pile removal is not possible with vibratory methods, wood piles will be cut and removed to 3 feet below the mudline. The new, steel fender support piles would first be vibrated in, then driven to tip with an impact hammer, then the remaining fender elements would be installed. The proposed fender system would be comprised of 96 piles. Pile driving activities could last up to 32 days depending on installation rate. The piles might be installed in segments (i.e., not consecutively) due to limited clearance of the bridge. Replacement of the fender system is anticipated to be completed in two months (September and October) within one construction season.

Bridge Deck Rehabilitation

The proposed Project Bridge rehabilitation activities would include resurfacing the existing bridge deck. The top two inches of asphalt concrete (AC) pavement would be removed and replaced with polyester concrete deck surfacing. The new bridge deck would conform to the existing grade of the bridge as the polyester concrete would be at the same depth as the existing AC overlay. Current standard pavement striping and markers would be applied. All signs and object markers located along the bridge and its approaches would be relocated or reset in place. Completing this work requires the use of heavy equipment on the roadway surface. The approach slabs supporting the roadways surface at the east and west ends of the bridge would be replaced. The existing slabs would be removed, and a form built to construct new approach slabs would be assembled. The new approach slabs would be cast

in place. The existing finger joints and header dams would be replaced with Caltrans standard strip joint seal assemblies. The existing pourable joint seals, typically used at each bent support, would be replaced in kind with Type A joint seals. A portion of the existing median barrier would need to be removed to facilitate the replacement of the finger joints. These portions of the median barrier would be removed and replaced in-kind.

Bridge Rail Replacement

The Project would replace and upgrade the existing 4,412 feet of concrete baluster bridge railing with a Type 85 concrete barrier along both sides of the bridge. The bridge will be widened one foot on each side from the addition of each new railing. In addition to the bridge railing replacement, the metal beam guardrail (MBGR) approaches and departures would be replaced with Midwest guardrail system (MGS) as necessary, with transition railing between the guardrail and the proposed bridge railing. To provide a standard connection between the MGS and the proposed bridge railing, 25 feet of the existing guardrail would be removed and replaced with the standard transition railing WB-31. Drainage facilities will also be constructed to convey stormwater off the bridge and into the adjacent area. A long above-ground drainage pipe to the west of the Petaluma River Bridge will be replaced and improvements will be made to drainage on the east end of the bridge.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status³
1. Longfin smelt (<i>Spirinchus thaleichthys</i>)	Threatened ⁴

This species and only these species is hereinafter referred to as “Covered Species.”

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include, demolition and removal of the existing fenders, construction of the substructure retrofit, abutment retrofit, superstructure retrofit, installation of sound attenuation systems, pile driving, vibratory hammering, construction of work platforms, construction of temporary access routes, excavation of the Project Area, fill of the Project Area, contaminants, and sediment mobilization (Covered Activities).

³ Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species. All other species are “unlisted.”

⁴ See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(2)(E).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as exposure to suspended sediments, barometric trauma, crushing by heavy equipment, entombment by excavation and fill and contaminants released during demolition and construction. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from exposure to suspended sediments, barometric trauma, crushing by heavy equipment, entombment by excavation and fill and contaminants released during demolition and construction. The areas where authorized take of the Covered Species is expected to occur include the bed, bank, and channel habitat areas of the Petaluma River (collectively, the Project Area) (Attachment 2).

The Project is expected to cause the permanent loss of 0.01 acres of in-water habitat for the Covered Species and temporary loss of 0.3 acres of (hydroacoustic) in-water habitat due 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: potential Covered Species mortality due to displacement from preferred habitat, entrainment through uptake of sediment, increased competition for food and space, increased vulnerability to predation, and the potential for impacts from inadvertent construction-related spills of pollutants (oils, gasoline, diesel, lubricants, etc.).

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 as authorized in this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures shall pertain to all Covered Activities within the Project Area, including areas used for vehicular and watercraft 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 State Route 37 Petaluma River Bridge Project in Marin and Sonoma Counties Mitigated Negative Declaration (SCH No.: 2022070088) adopted by the California Department of Transportation on December 30, 2022 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), unless otherwise conditioned herein.
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (Notification No. EPIMS-MAN-47736-R3) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the U.S. Fish and Wildlife Service Formal Consultation on the Biological Opinion for the Proposed State Route 37 Petaluma River Bridge Project (EA 04-2Q500) pursuant to the federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is summarized in Attachment 3 to this ITP.
- 6. General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing 15 days prior to starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2. Qualified Biologist(s) and Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Qualified Biologist(s) and Biological Monitor(s) at least 30 days before starting Covered Activities using the Biologist Resume Form (Attachment 4). Permittee shall ensure that the Qualified Biologist(s) and Biological Monitor(s) is knowledgeable and experienced in the biology, natural history collecting and handling of the Covered Species. The Qualified 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 Qualified Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Qualified Biologist(s) and Biological Monitor(s) must be changed.

- 6.3. Qualified Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Qualified Biologist, Biological Monitor or resident engineer shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Qualified Biologist in the performance of his/her duties. If the Qualified Biologist is unable to comply with the ITP, then the Qualified 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 Qualified 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.
- 6.4. Training Session for Personnel. Permittee shall ensure that a CDFW-approved qualified biologist conducts an education program for all persons employed on the Project prior to performing Covered Activities. Instruction shall consist of a presentation by the Qualified Biologist that includes a discussion of the biology and general behavior of any sensitive species which may be in the area, how they may be encountered within the work area, and procedures to follow when they are encountered. The status of CESA-listed species including legal protection, penalties for violations and Project-specific protective management measures provided in this Agreement shall be discussed. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to on-site Project activity. Copies of the Agreement for this Project shall be maintained at the worksite with the Project supervisor. Permittee or Qualified Biologist shall prepare and distribute wallet-sized cards or a factsheet handout containing this information for workers to carry on-site. Upon completion of the program, employees shall sign an affidavit 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. The forms and education pamphlet shall be filed at the Permittee's office and submitted to CDFW prior to the completion of construction.

- 6.5. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of Project activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be picked up and removed daily.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Qualified Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 6.8. Erosion Control. 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. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas, which may include reseeding using a noxious weed-free locally native seed mix, hydroseeding, jute matting, or tackifying agents to stabilize soils, dust control, and prevent erosion.
- 6.9. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as plastic or monofilament netting (erosion control matting) or similar material. Tightly woven silt fencing material or woven organic materials such as coir logs (without mono-filament netting) shall be permitted.
- 6.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area. All fenced, staked, or flagged markers shall be removed upon completion of the Project. If placing of markers is not feasible sensitive areas shall be discussed in the Training Session for Personnel (Condition of Approval 6.4).
- 6.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope

or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat. If placing of markers is not feasible, sensitive areas shall be discussed in the Training Session for Personnel (Condition of Approval 6.4). All fenced, staked, or flagged markers shall be removed upon completion of the Project.

- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or enroute to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.13. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the off-site staging areas outside of sensitive habitat and covered species habitat. All Staging and storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the river channel and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the creek shall be positioned over drip pans. Any equipment or vehicles driven and/or operated within or adjacent to the stream must be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area.
- 6.14. No Dumping. Permittee and all contractors, subcontractors, and employees shall not dump any litter or construction debris within the river, or where it may pass into the river.
- 6.15. Wash Water. Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
- 6.16. 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.

- 6.17. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.18. 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.
- 6.19. Equipment Maintenance and Fueling. All equipment operated within the channel shall be checked and maintained daily to prevent leaks of materials that if introduced to the water could be deleterious to Covered Species. No equipment maintenance or fueling shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas unless the appropriate spill prevention measures are in place such as catch basins or drip pans, lined with an impermeable layer that has been placed under the equipment. When exchanging tanks over water or filling the vibratory extractor rig, drip pans shall be used. Fuel and other material stored on the barge shall be stored in a plastic tub to contain leaks or spills. Spill equipment such as booms, drip pans, and absorbent pads shall be on-site and be ready to deploy in case of spill.
- 6.20. Cleaning Equipment Prior to Entering Channel. All equipment that will be entering the active channel shall be cleaned of materials deleterious to aquatic life including oil, grease, hydraulic fluid, soil and other debris. Wash water containing mud or silt from washing or other operations shall not be allowed to enter the channel.
- 6.21. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>. Additional resources can be found on the California Invasive Species List from the Invasive Species Council of California.
- 6.22. Spill Prevention. A spill response plan shall be submitted to CDFW for approval in writing at least thirty (30) days prior to the initiation of construction. A designated inspector familiar with the utilized construction equipment shall be on-site during all Project activities in order to monitor equipment operations, prevent waterway contamination and respond to equipment malfunctions. The barge, boat, heavy equipment shall be regularly inspected for wear, leaks, and/or malfunction.

Hazardous material leaks and spills shall be attended to immediately as outlined in the Spill Prevention and Response Plan. Prior to entering the work site, all field personnel shall know the location of spill kits and trained in their appropriate use.

- 6.23. Spill Containment. All activities performed in or near a river, stream, or lake shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the cleanup activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW at least 5 calendar days before starting Covered Activities for each construction season and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative and Qualified Biologist shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative and Qualified Biologist 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.
- 7.3. Compliance Monitoring. The Qualified Biologist shall be on-site daily when Covered Activities occur. The Qualified 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 Qualified 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.

- 7.4. Monthly Compliance Reports. The Designated Representative or Qualified Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent, and temporary impacts. The reports shall: (1) identify and describe the temporary and permanent impacts to date; and (2) include all monitoring information required by the terms of this ITP. Monthly Compliance Reports shall be submitted within thirty (30) days 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 Karen Taylor (Karen.Taylor@wildlife.ca.gov), Regional LSA email, R3LSA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Qualified 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 Qualified Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than sixty (60) days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Qualified Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy

of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

- 7.8. Notification of Take or Injury. Permittee shall immediately notify the Qualified Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Qualified Biologist or Designated Representative shall provide initial notification to the CDFW Representative, Karen Taylor, Senior Environmental Scientist (Specialist) (Karen.Taylor@wildlife.ca.gov), and Regional LSA email, R3LSA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number (2081-2024-011-03). Following initial notification, Permittee shall send CDFW a written report within two business days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures

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

- 8.1. Work Period. Permittee shall limit all work for the Bridge Fender System Replacement as described in the Project Description to the period between September 1 and October 31.
- 8.2. Night Work Restrictions. No bridge railing or in-water night work is permissible under this Permit. Night work shall be limited to median bridge work and other non-bridge activities only. Otherwise, all work shall be limited to occur from 30 minutes prior to sunrise and up to 30 minutes after sunset. Night work lighting shall have directional shields directing light downward and toward active construction and staging areas and shall not exceed 2,000 lumens.
- 8.3. Work Period in Dry Weather Only. Permittee shall conduct all work as described in the Project Description, and within the Project Area during periods of dry weather. The Permittee shall monitor forecasted precipitation. When ¼-inch or more of

precipitation is forecasted to occur, the Permittee shall stop work before precipitation commences. No Project activities may be started if its associated erosion control measures cannot be completed prior to the onset of precipitation. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective action as needed. Seventy-two-hour weather forecasts from National Weather Service shall be consulted and work shall not start back up until runoff ceases and there is less than a 50% forecast for precipitation for the following 24-hour period.

- 8.4. Disposal of Debris. To prevent wildlife from utilizing piles of vegetation, vegetation removed under project activities shall be placed directly into a disposal vehicle and removed from the project site. Vegetation shall not be piled directly on the ground unless it is later transferred for disposal, piece by piece, under the direct supervision of a Qualified Biologist or Biological Monitor.
- 8.5. Pile/Pier Removal. Any pile or pier or any sediment or attached debris on a pile or pier set for demolition shall be removed in a manner to prevent any pile, pier or associated mud or debris from entering the active channel. Upon removal the pile, pier or associated mud or debris must be stored in a containment system located outside of Covered Species habitat that is designed so runoff cannot enter the active channel.
- 8.6. Soft Start Pile Driving. For all in-water pile driving and piles that occur within 200 linear feet of the water's edge in the active channel, the initial strikes shall occur at less than full impact force for a period of 15 seconds followed by 30 seconds of no activity. This action shall be repeated two additional times after which the impact strength shall be gradually brought up to full force blows.
- 8.7. Pile Driving Hydro-Acoustic Limits. Sound pressure levels generated by attenuated impact pile driving activities, including pile proofing in the water, and within 200 linear feet of the water's edge in the active channel, shall be kept below the interim thresholds, 206 decibel (dB) peak Sound Pressure Level (SPL) and 183 dB cumulative Sound Exposure Level (SEL). If the 206 dB SPL or 183 cumulative SEL thresholds are exceeded for impact pile driving, or pile-proofing activities, the Permittee shall stop all impact pile driving activities and not continue until CDFW has been consulted. Any exceedance in the threshold distances for impact pile driving shall require an Amendment to this ITP. The Permittee shall monitor sound levels for all in-water impact pile install activities, including pile-proofing, as well as for piles installed within 200 linear feet of the water's edge in the active channel, as specified in Condition of Approval 8.9. Monitoring shall only be required during impact pile driving activities occurring within the river channel and within 200 feet of the water's edge of the active channel.

8.8. Turbidity, Noise and Vibration Reduction. The Permittee will furnish, install, operate and maintain a sound attenuation system for all piles installed in water by impact hammer to reduce noise generated into the water. If the sound attenuation system fails, pile driving shall immediately stop and may not resume at the location until the system is put back into operation. Piles installed by vibratory hammer shall not require sound attenuation. A design of the sound attenuation system shall be submitted to CDFW for written approval no less than 14 days prior to the initiation of construction. The following sound attenuation systems may be employed including but not limited to:

- a. Confined bubble curtain
- b. An unconfined bubble curtain
- c. Isolation casings
- d. Wooden pile cushions

8.9. Hydroacoustic Monitoring Plan. A minimum of fourteen (14) days prior to the initiation of construction a hydroacoustic monitoring plan to evaluate sound levels during pile driving activities shall be prepared by the designated hydroacoustic monitoring specialist who is also approved as a Qualified Biologist. The acoustic monitoring plan shall follow the “*Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities*” memorandum from the Fisheries Hydroacoustic Working Group, Dated June 12, 2008) and must be approved in writing by CDFW before pile driving activities can proceed. The acoustic monitoring plan must be implemented during all in-water impact pile driving activities including pile-proofing, as well as near water piles within 200 feet of the edge of water in the active channel. At minimum, the plan will include the following:

- Daily acoustical monitoring by the designated hydro-acoustic monitoring specialist.
- Describe the methods necessary to continuously assess underwater noise on a real-time basis, including details on the number, location, distance and depth of hydrophones and associated monitoring equipment.
- Provide a means of recoding the time, number of pile strikes, peak sound energy per strike and interval between strikes.
- A minimum of two hydrophone underwater sound monitoring systems (hydrophone, signal amplifier and calibrator) that utilize current National Institute of Standards and Technology traceable calibration method.

- Require a minimum recording distance of 10 meters from each pile being monitored.
- Position a hydrophone at the proposed limits of peak and cumulative strikes to ensure threshold distances are not surpassed or provide specific analysis on how the proposed limits shall be measured and monitored.
- Provide specific inputs and calculations for cumulative sound exposure limits in the monitoring reports.

The results of hydroacoustic monitoring shall be made available to CDFW upon request and submitted in the appropriate Monthly Report (See Condition of Approval 7.4) Annual Report (See Condition of Approval 7.5) and the Final Mitigation Report (See Condition of Approval 7.7).

- 8.10. Minimize Use of Impact Hammer. The amount and duration of the impact hammer activities shall be minimized. Use of the impact hammer shall be limited to daylight hours to allow movement of fish that may be present in the Project vicinity to pass the construction area during the nighttime hours.
- 8.11. Daily Aquatic Species Checks. Before the start of work each day and throughout the course of the day as determined by the Qualified Biologist, the Project Area shall be inspected for any Covered Species or aquatic species. Aquatic species shall be removed by the Qualified Biologist and translocated to a safe location (see Condition of Approval 8.15).
- 8.12. Fish Salvage. The Qualified Biologist shall stop work if fish are stunned or otherwise directly impacted by noise and vibration from pile driving. Work shall not resume until the fish clears the construction area or fish rescue is performed as specified in Condition of Approval 8.15.
- 8.13. Covered Species Entrainment. Permittee shall minimize the potential for Covered Species to be entrained in any equipment intakes, pipes, etc. Pump intakes shall be placed away from complex vegetated banks that may contain habitat for Covered Species. Screen material may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Round openings in the screen shall not exceed 3/32-inch diameter, square openings shall not exceed 3/32-inch measured diagonally, and slotted openings shall not exceed 0.069 inches in width. Approach velocity shall not exceed 0.33 feet per second.
- 8.14. Covered Fish Species Mortality. If the Covered Species is found recently deceased, the carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. The specimen shall be delivered to the CDFW

Wildlife Investigations Lab, 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.

8.15. Handling and Release of Covered Species. Any Covered Species that are caught in the course of Project activities shall be immediately released. Species, approximate size, date, time, location of capture, and condition shall be noted prior to release. This documentation shall be included in the Monthly Compliance Report as required by Condition 7.4. Appropriate handling techniques shall be used to minimize potential effects to fish, such as keeping fish in water as much as possible and handling when hands are wet. Capture of Covered Species shall be reported to CDFW per Condition 7.8 (Notification of Take or Injury).

8.15.1. Wet Hands and Nets. Handling of Covered Species shall be minimized. However, when handling is necessary, the Qualified Biologist shall always wet hands (i.e., free of lotions, creams, sunscreen, oils, ointment, insect repellent or any other harmful materials) or nets prior to touching Covered Species.

8.15.2. Proper Holding Technique. Holding containers shall be sized such that individual Covered Species will fit without touching the sides. The Qualified Biologist shall temporarily hold individuals in cool, shaded, aerated water in a flow-through live car. The Qualified Biologist shall protect Covered Species from jostling and noise and shall not remove Covered Species from this container until time of release.

8.15.3. Water Temperature and Water Changes. The Qualified Biologist shall measure air and water temperatures periodically. A thermometer shall be placed in holding containers and, if necessary, periodically conduct partial water changes to maintain a stable water temperature consist with pre-project habitat conditions.

8.15.4. No Overcrowding. Overcrowding in containers shall be avoided by having at least two containers and segregating individuals from larger age-classes to avoid predation. If fish are abundant, the captures shall cease periodically, and captured fish shall be released at predetermined locations before resuming capture to avoid being held for too long.

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

To meet this requirement and compensate for the 0.31 acres of impacts, the Permittee shall implement the purchase of 0.18 acres of Covered Species habitat credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) (0.01 acres X 3 = 0.03 acres; 0.3 acres X 0.5 = 0.15 acres; totaling 0.18 acres). The mitigation or conservation bank credits shall consist of 0.18 acres of in-water habitat OR shall provide for both the permanent protection and management of a minimum of 0.18 acres of Habitat Management (HM) lands (assuming the HM lands supports the Covered Species) pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. HM lands shall include 0.18 acres of in-water the Covered Species through preservation, restoration, enhancement, and/or creation of habitat that is the same or better quality as the in-water habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

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

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$50,000.00 per acre; for 0.18 acres: **\$9,000.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements:
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$10,012.00**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$750.90**;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$30,906.00 per acre; for 0.18 acres: **\$5,563.08**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$3,000.00**.

- 9.2. Covered Species Credits. Permittee shall purchase 0.18 acres of Covered Species in-water credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP, if Security is provided pursuant to Condition of Approval 10 below.

OR

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

- 9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);
- 9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need

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

- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, annual protocol-level Covered Species surveys, and rangeland monitoring. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.
- 9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved

fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;
- 9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

- 9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
- 9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: 10 Percent Contingency.
- 9.4.2.3. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
- 9.4.2.4. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 9.4.2.5. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.
- 9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 10. Performance Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 10.1. 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.
- 10.2. 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 4.
- 10.3. Security Amount. The Security shall be in the amount of **\$28,325.98**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.4. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.5. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.6. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.7. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.8. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.9. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation

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

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2024-011-03) 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:

Karen Taylor, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone: (707) 428-2002
Karen.Taylor@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, 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 State Route 37 Petaluma River Bridge Mitigated Negative Declaration (State Clearinghouse No. 2022070088) dated July 7, 2022 and adopted on August 5, 2022.

In fulfilling its obligations as a responsible agency, CDFW's obligations pursuant to CEQA are more limited than those of the lead agency. CDFW, in particular, is responsible for considering only the effects of those Project activities that it is required by law to carry out or approve, and mitigating or avoiding only the direct or indirect environmental effects of those parts of the Project that it decides to carry out, finance, or approve [Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g)].⁵

⁵ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Accordingly, because CDFW's exercise of discretion is limited to issuance of this ITP, CDFW is responsible for considering only the environmental effects that fall within its permitting authority pursuant to CESA.

This ITP, along with CDFW's CEQA findings for this ITP and Project, 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, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, the Mitigated Negative Declaration, 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) seasonal restrictions; (3) worker education; (4) monitoring; and (5) compliance reporting. 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 3.6885 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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

Attachments:

ATTACHMENT 1	Project Location Map
ATTACHMENT 2	Project Components Map
ATTACHMENT 3	Summary Table of Reporting Requirements to CDFW
ATTACHMENT 4	Bio Resume Form
ATTACHMENT 5	Master Funding Agreement Funding Memorandum

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 5/15/2025.

DocuSigned by:

Erin Chappell

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Erin Chappell, Regional Manager
Bay Delta Region

Incidental Take Permit
No. 2081-2024-011-03

CALIFORNIA DEPARTMENT OF TRANSPORTATION
PETALUMA RIVER BRIDGE FENDER PROJECT



 Project Limit

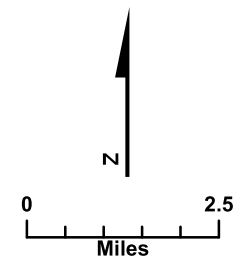
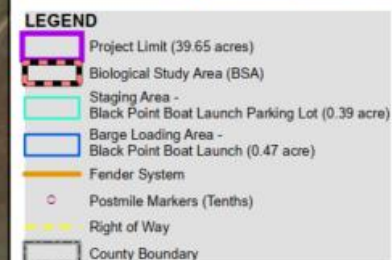
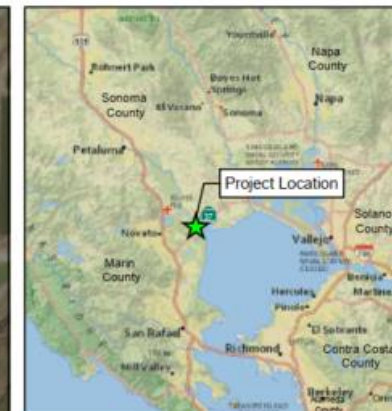
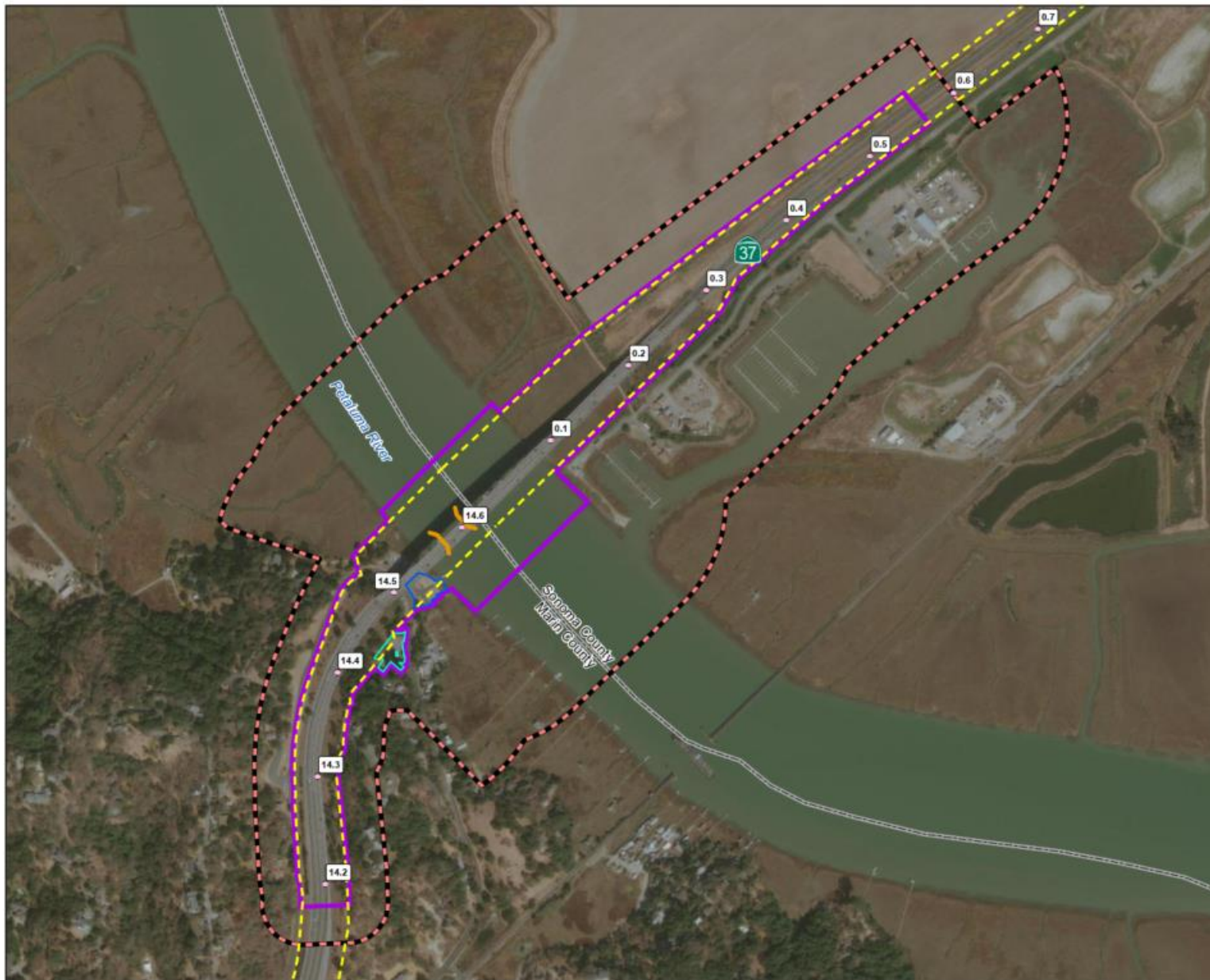


Exhibit A Project Location

Petaluma River Bridge Project
EA 2Q500, 04-MRN-37-PM 14.50
Marin and Sonoma Counties, California



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
 National Geographic, Esri, Garmin, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.

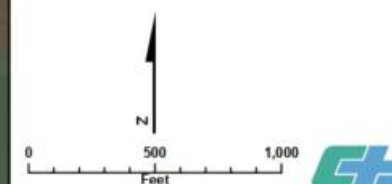


Exhibit B
Biological Study Area and Project Components
 Petaluma River Bridge Project
 EA 2Q500, 04-MRN-37-PM 14.50
 Marin and Sonoma Counties, California

Attachment 3. Summary of Reporting Requirements to CDFW

Document	Due to CDFW	Condition	Additional Notes
Qualified Biologist and Monitor Resumes	Thirty (30) days prior to initiation of construction	6.2	
Final Construction Schedule	Within fifteen (15) days prior to start of construction*	6.5	*for any major construction schedule changes, notify CDFW at least seven (7) days prior to change being implemented.
Spill Prevention	Thirty (30) days prior to initiation of construction	6.22	
Monthly Compliance Reports	Within thirty (30) days after each month.	7.4	
Annual Status Reports	No later than January 31st of every year*	7.5	*beginning with the issuance of ITP until CDFW accepts the Final Mitigation Report
Final Mitigation Report	No later than sixty (60) days after the completion of all mitigation measures	7.7	
Hydroacoustic Monitoring Plan	At least fourteen (14) days prior to initiation of construction	8.9	

Permit Expiration: December 31, 2029



Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

COVER SHEET

SUBMIT EACH RESUME AS A SEPARATE DOCUMENT

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

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.**

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.



Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

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 Conditions²:**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 V.

Species or Resource	Number of Field Seasons & Hours, Life Stages Observed Provide project details in Section 5	Life History Knowledge Describe formal workshops & training with dates, or informal training details	CDFW SCP, MOU, & USFWS 10a1a Authorization Number & Authorized Activities This form does not fulfill SCP, MOU, & USFWS 10a1a reporting requirements	
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.



Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

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 IV. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

SPECIES OR RESOURCE 1:**Project 1 Name & Location:****Project Start Date:****Project End Date:****LSA Agreement, ITP, or Other Agency Permit Number:****Role(s)⁴:****Survey Type(s)⁵:****Construction Monitoring⁶****Days:****Activities:****Species Life Stages Observed & Handled, Number of Each****Life Stage:****Number Observed:****Number Handled:****Reported to****CNDDB⁷ (Y/N):****Company Name, Professional Reference Name, Phone, Email:****If not reported to CNDDB, why:****CDFW and Other Agency Email:****Project 2 Name & Location:****Project Start Date:****Project End Date:****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****CNDDB (Y/N):****Company Name, Professional Reference Name, Phone, Email:**

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 CNDDB is the abbreviation for California Natural Diversity Database.

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
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:	
Additional Information:	
SPECIES OR RESOURCE 2:	
Project 1 Name & Location:	
Project Start Date:	Project End Date:
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:	

**BIOLOGIST RESUME**Project Name: [Click or tap here to enter text.](#)LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

Project 2 Name & Location:	
Project Start Date:	Project End Date:
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 Date:	Project End Date:
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:	
SPECIES OR RESOURCE 3:	
Project 1 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

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 CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 2 Name & Location:	
Project Start Date:	End Date:
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 CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring:	



BIOLOGIST RESUME

Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

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:	

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.