

California Department of Fish and Wildlife North Central Region 1701 NIMBUS ROAD RANCHO CORDOVA, CA 95670

California Endangered Species Act Incidental Take Permit No. 2081-2025-016-02

CITY OF SACRAMENTO PUMP OUTFALL REPLACEMENT PROJECT:
SUMP 089

I. Authority:

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

Permittee: City of Sacramento - Department of Utilities

Principal Officer: Raymond Kong, (916) 808-1435

Contact Person: Stephen Burkholder, (530) 757-0941

Mailing Address: 1395 35th Avenue

Sacramento, CA 95822

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **July 31, 2030**.

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 7.1 of this ITP.

III. Project Location:

The City of Sacramento Pump Outfall Replacement Project: Sump 089 (Project) is located along Morrison Creek within the City of Sacramento, Sacramento County (See **Figure 1**). The Project is located approximately 0.85 miles east of Interstate 5 at approximately 38.458480, -121.47840. The Project site is bound by Morrison Creek to the south and a levee with an access road to the north.

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.

IV. Project Description:

The Project includes the complete replacement of the pump discharge pipe at Sump 089 on the north side of Morrison Creek. The area around the portion of pipe to be replaced will be excavated and the pipes will be cored out through the headwall on the waterside of the levee. Approximately 235 feet of three (3) 42-inch welded steel pipes (WSP) and 105 feet of one (1) 18-inch WSP near the pump discharge and outfall structure locations will be replaced. Replacement of the headwall and baffles, level sensor conduit, and 260 feet of the existing floodwall will occur. Rock slope protection will be replaced on the existing apron downslope. A positive closure vault that is cast-in-place concrete will be installed at the hinge point of the levee and partially buried. The vault area will be excavated to the bottom of the levee and then built back up from the bottom of the vault. In addition, 450 square feet of the existing concrete floodwall that sits on the top of the levee and borders the Project site will be removed and replaced.

The sump site will have its own staging area on the landside of the levee. Work on the landslide and waterside of each levee is anticipated. In-water work will occur over four (4) summer months of a single construction season. A temporary cofferdam will be installed at the outfall for dewatering during the pipeline replacement.

Project activities include grubbing and grading of the entire Project site, tree removal, trench digging, temporary cofferdam installation for water diversion, and other activities.

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

This ITP covers the following species:

Name CESA Status³

1. Giant garter snake (*Thamnophis couchi gigas*) Threatened⁴

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

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include clearing and grubbing, excavation, dewatering, grading, concrete pouring, trench digging, capture and relocation of Covered Species, and construction equipment ingress and egress associated with the replacement of the pump discharge pipe at Sump 089 (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as temporary habitat modification, crushing, entombing,

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

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

partial amputation, relocation, thermal stress, and other means resulting in the direct mortality of individuals. The Covered Species could be injured or killed by construction equipment working in suitable aquatic and upland habitat or construction vehicles traveling though the Project Area. Disturbance or degradation of suitable aquatic habitat for the Covered Species in the Project Area could occur if soil or other materials are sidecast or fall into the habitat. Mortality could result from being crushed by vehicles or equipment or becoming trapped or crushed within construction materials, steep-walled holes/trenches, excavated areas, or other refugia; or being stranded in dewatered area within the cofferdam. Fuel or oil spills from construction equipment into aquatic habitat could also cause illness or mortality of the Covered Species. Noise and vibrations from construction equipment and presence of human activity during Covered Activities may also disturb the Covered Species within the Project Area.

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 the Capture Biologist's attempts to capture and relocate the Covered Species. Covered Species may be injured or adversely affected by removal of vegetative cover, construction activities obstructing movement of the Covered Species, or movement of stored equipment or materials that could be used by the Covered Species as a place for cover.

The areas where authorized take of the Covered Species is expected to occur include: the entire Project area identified in **Figure 2** including in and along Morrison Creek, and the upland areas between the Creek and the floodwall (collectively, the Project Area).

The Project is expected to cause the temporary loss of 0.12 acres of habitat for the Covered Species (0.03 acres aquatic habitat and 0.09 acres of upland habitat). Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from operating equipment, installation of Covered Species fencing, removal of possible burrows from the Project Area, disruption of feeding and sheltering behavior from exposure to noise, vibration, and dust, long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

VII. Incidental Take Authorization of Covered Species:

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

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this ITP.

VIII. Conditions of Approval:

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

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

- **1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance: Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2021030186) adopted the City of Sacramento on August 18, 2021 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance: Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (EPIMS Notification No. SAC-25169-R2) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- **4. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 5. Provisions Prior to Disturbing Soil or Vegetation:
 - 5.1. Designated Biologist(s) and/or Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, and collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the

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Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

- **5.2.** Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- **5.3.** <u>Delineation of Habitat</u>. 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.
- **5.4.** Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- **5.5.** <u>Habitat Restoration and Security Compliance</u>. Permittee shall comply with all conditions detailed in Section 6, Habitat Restoration and Security, that are required prior to the start of groundbreaking activities.

6. Provisions Prior to Disturbing Soil or Vegetation and for Entire Project:

- **6.1.** <u>Designated Representative</u>. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 6.2. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide translation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program,

- employees shall sign a form stating they attended the program and understand all protection measures.
- **6.3.** Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any noncompliance 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.** Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- **6.5.** <u>Trash Abatement</u>. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- **6.6.** <u>Dust Control</u>. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- **6.7.** <u>Erosion Control Materials</u>. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.

- **6.8.** <u>Delineation of Property Boundaries</u>. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.9. Project Access. Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- **6.10.** Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.8 of this ITP.
- **6.11.** <u>Hazardous Waste</u>. 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.
- **6.12.** CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and restoration 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.
- 6.13. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

- 6.14. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once a week during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to: minimize incidental take of the Covered Species; prevent unlawful take of species; check for compliance with all measures of this ITP; check all exclusion zones; and ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.
- 6.15. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to 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 R2 CESA Desk (R2CESA@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 6.16. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to temporary disturbance since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- **6.17.** CNDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) within

- 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.18. Covered Species Encounters. When a Covered Species is encountered in the Project Area, the first priority will be to temporally stop activities in the immediate surrounding area that may result in injury, or death of the individual as determined by the Designated Biologist. The Designated Biologist will then assess the situation to select a course of action that will minimize adverse effects on the Covered Species. The Designated Biologist will determine if the appropriate course of action is to avoid contact with the Covered Species and allow it to move out of the Project Area on its own volition to a safe location. The Covered Species shall not be moved solely because it is not moving fast enough, or it is inconvenient for the Project schedule. This protocol only applies to situations where a Covered Species is encountered on the move to a location that contains covered species habitat that will not be damaged or destroyed by the Project.
- **6.19.** Capture and Relocation Plan. The Permittee shall develop a Capture and Relocation Plan for the Covered Species and submit it to CDFW for approval 30 days prior to initiating Covered Activities. CDFW will provide a written response, approving the Capture and Relocation Plan or providing the feedback necessary to approve the Capture and Relocation Plan, within 15 business days of the submittal. The Capture and Relocation Plan shall describe how and where the Covered Species will be captured and relocated if it becomes necessary to move them to avoid injury or mortality. All capturing and handling shall be conducted by the Designated Biologist with experience and expertise in handling the Covered Species. The Capture and Relocation Plan shall include the name and qualifications of the Designated Biologist responsible for capturing and handling the Covered Species, the methods that will be used to capture and relocate the Covered Species, and a map showing where the Covered Species will be released. The permittee shall quantify the amount, relative location, and quality of suitable habitat (aquatic and terrestrial) for relocation areas, including invasive and non-native species present, available upland burrows, suitable prey items, and potential barriers for movement. The Permittee shall also identify a wildlife rehabilitation or veterinary facility that will be used if any captured Covered Species are injured. Relocation areas should be within the same watershed as the Project Area. If a Covered Species is found on the Project Site, the Designated Biologist shall be notified immediately. Covered Species encountered in active construction areas shall be allowed to leave on their own volition. The Designated Biologist shall only relocate the Covered Species if the animal is directly threatened by immediate Covered Activities and the animal is unable to move to a safe area on its own. The Designated Biologist shall only relocate the Covered Species to areas identified in the Capture and Relocation Plan. Relocated animals shall be released as soon as possible. The Designated Representative shall notify CDFW of the incident immediately or no later than noon

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- on the next business day if the incident occurs outside of normal business hours. Notification to CDFW shall be via telephone or email, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident.
- 6.20. Capture and Handling. Uninjured snakes encountered during construction activities shall be allowed to move away from the area on their own volition. Capture and relocation of trapped or injured individuals shall be attempted only in accordance with the Capture and Relocation Plan by the Designated Biologist with CDFW approval to handle the snakes. The Designated Biologist shall determine whether the animal should be captured and handled and shall minimize capture and handling to the extent feasible as most reptiles will experience stress in response to capture and short-term confinement.
- 6.21. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (916) 907-3438. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.
- **6.22.** CDFW Reinitiation. If the Permittee takes two (2) of the Covered Species, reinitiation with CDFW is required to ensure that all prudent and feasible measures have been implemented to minimize and fully mitigate the take that has occurred or will likely continue to occur. Permittee shall notify the CDFW Regional Representative at R2CESA@wildlife.ca.gov to request reinitiation.
- 6.23. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility (https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/Rehab/Facilities) in accordance with the Capture and Relocation Plan. Permittee shall identify the facility in the Capture and Relocation Plan before starting Covered Activities. An alternate facility may be used, if approved by CDFW in writing. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 6.21. Notification shall include the name of the facility where the animal was taken.

- 6.24. Timing of Work for Construction Activities. All ground disturbing Covered Activities occurring in the aquatic habitat and in the upland area within 200 feet of aquatic habitat shall be conducted during the Covered Species active period (May 1 October 1). Non-ground disturbing activities may occur outside of Covered Species active period. If construction needs to occur between October 1 and April 30, exclusion fencing is required. Exclusion fencing shall be installed to exclude Covered Species from the construction area prior to September 15 upon approval of CDFW.
- 6.25. Seasonal Work Period Exception. The Permittee may conduct work between October 2 and October 31, or April 1 and April 30, provided the ambient air temperatures exceed 75 degrees Fahrenheit (F) during work and maximum daily air temperatures have exceeded 75 degrees (F) for at least three consecutive days immediately preceding work. CDFW may consider requests to work outside of the Seasonal Work Period (Condition of Approval 6.24) on an activity-by-activity basis. The Permittee shall submit these requests in writing for review and approval by CDFW 48 hours preceding Covered Activities. Requests shall include a justification for the request and any additional information CDFW deems necessary.
- **6.26.** Dewatering of Aquatic Habitat. Permittee shall dewater suitable Covered Species aquatic habitat prior to any Covered Activities occurring in the suitable aquatic habitat. Permittee shall ensure the habitat remains dry for at least fifteen (15) consecutive days after April 15 and prior to excavating or filling of aquatic habitat. The dewatered area shall remain dry until construction activities in the dewatered area are complete. Permittee shall limit dewatering to April 15 to October 1. Permittee shall limit dewatering to the immediate Project Area and shall ensure that alternative aquatic habitat is available.
- **6.27.** Pre-Construction Survey. No more than 24 hours prior to commencement of Covered Activities, the site shall be surveyed for the Covered Species by the Designated Biologist. The Designated Biologist shall survey all suitable habitat in the Project area (including all upland habitat within 200 feet of Covered Species aquatic habitat) and the Designated Biologist shall repeat the survey if a lapse in Covered Activities of fourteen (14) consecutive days or greater occurs. The Designated Biologist shall provide CDFW with a report documenting the survey results within 24 hours of commencement of Covered Activities.
- **6.28.** <u>Vegetation Clearing</u>. Permittee shall ensure the air temperature has reached 75 degrees Fahrenheit before starting ground-disturbing activities. Permittee may mow the Project area to no lower than six (6) inches above the ground where the height and density of vegetation prevents the Designated Biologist from assessing the site for Covered Species and their habitat. The Designated Biologist shall enter and survey the Project area before vegetation is cleared below six (6) inches. Permittee may clear vegetation upon completion of survey.

- **6.29.** Stockpiling of Soil. Permittee shall stockpile soil or grading spoils in the designated Staging Areas or previously disturbed areas to avoid affecting previously undisturbed areas. Permittee shall install sediment barriers (e.g., silt fences, fiber rolls, and straw bales) as described in Condition of Approval 6.35 around the base of the stockpiles to intercept runoff and sediment during storm events. If necessary, Permittee shall also cover stockpiles to provide additional protection against wind and water erosion.
- **6.30.** Confine Clearing, Scraping and Digging. Permittee shall confine clearing of vegetation and scraping or digging of soil to the minimal area necessary to facilitate construction activities, to the maximum extent feasible.
- 6.31. Fencing Environmentally Sensitive Areas (ESAs). Permittee shall establish ESAs in the Project area, by installing orange construction barrier fencing, to prevent encroachment of construction personnel and equipment into areas of Covered Species habitat that are outside of or adjacent to the Project footprint no more than five days prior to the commencement of Covered Activities. All potential Covered Species habitat that can be reasonably avoided during construction activities shall be identified as ESAs. All construction personnel shall avoid ESAs. The Permittee shall avoid ESAs when siting all Staging Areas, spoils disposal areas, and construction equipment access routes. The ESAs shall be identified on all engineering plans or construction specifications. The Designated Biologist shall inspect the fencing before the start of each workday and the Permittee shall maintain the fencing until the completion of the Project. Fencing shall be removed upon completion of Covered Activities.
- 6.32. Exclusion Fencing. Permittee shall install exclusionary fencing linearly, where feasible and safe to do so, in upland areas and adjacent to aquatic habitat to help prevent the Covered Species from traveling toward the Project area. The exclusionary fencing shall consist of 3-foot-tall silt fencing buried six (6) inches below ground level. Permittee shall install the fencing at least ten (10) feet from aquatic habitat to reduce the hazard of trenching to the Covered Species. Permittee shall place contiguous sandbags on the fence on the inside of the Project Area when trenching is not feasible. Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing. Covered Species found during fence installation shall be relocated per Condition of Approval 6.19. The Designated Biologist shall check the fencing each morning to ensure no Covered Species have moved into the Project area. Permittee shall ensure the fence is taut and the bottom edge remains buried. Permittee shall remove the fencing upon completion of the Project.
- **6.33.** Excavated Locations. To prevent inadvertent entrapment of the Covered Species during construction, the Designated Biologist and/or construction foreman/manager shall ensure all excavated locations, steep-walled holes or trenches more than six

- (6) inches deep are completely covered with boards or provided with one or more escape ramps constructed of earthen fill or wooden planks at no greater than 30 degrees at the end of each workday whichever occurs first or 30 minutes prior to sunset, whichever occurs first. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals by the Designated Biologist. All steepwalled holes or trenches will be inspected by the Designated Biologist each morning to ensure that Covered Species, or other wildlife, has not become entrapped. All construction pipes, culverts, similar structures, construction equipment, and construction debris left overnight will be inspected for Covered Species by the Designated Biologist prior to being moved.
- **6.34.** <u>Daily Species Checks</u>. The Designated Biologist or Biological Monitor shall perform a daily inspection to check under vehicles and equipment, along exclusion fences, inside pipes, and in debris piles/excavated pits for the Covered Species before the vehicles and equipment are moved. If a Covered Species is present, Covered Activities with potential to take the Covered Species shall cease until the animal moves away from the Project area on its own or the Capture Biologist(s) moves the animal to a safe location nearby as determined by Condition of Approval 6.19.
- 6.35. Erosion Control. Permittee shall install erosion control structures concurrently with construction. Permittee shall construct these structures, so runoff is directed away from ESAs. Permittee shall use tightly woven fiber netting (mesh size less than 0.25 inch) or similar material for erosion control or other purposes at the Project site to ensure the Covered Species and other reptiles or amphibians are not trapped by the erosion control material. Permittee shall not use plastic monofilament or wire mesh in the straw wattles or erosion control blankets. Only erosion control materials (blankets, roles, mats, etc.) with natural coir fibers or other netting approved by the wildlife agencies shall be used. The edge of the material shall be buried in the ground to prevent the Covered Species and other reptiles and amphibians from crawling underneath the material. Erosion control measures shall direct water flow into existing drainages or disperse water across vegetated areas.
- **6.36.** Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, and/or barriers from the Project site upon completion of Covered Activities.
- **6.37.** Open Pipes Restriction. The Permittee shall thoroughly inspect all construction pipes or similar structures with a diameter of 0.25 inches or greater that are stored for one or more overnight periods for presence of the Covered Species before the pipe is subsequently moved, buried, or capped. If the individual is found within the fenced Project Site and cannot safely escape, the Designated Biologist(s) capture and relocate the individual outside of the area of construction (See Condition of Approval 6.19 Capture and Relocation Plan).

7. Post Construction Conditions

- 7.1. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- **7.2.** 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.
- 8. Habitat Restoration and Security: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for the removal and monitoring of 0.75 acres of water primrose (*Ludwigia sp.*) from nearby Covered Species habitat in Morrison Creek for 3 years and the calculation and deposit of the restoration funds pursuant to Condition of Approval 8.5 below. Restoration and Primrose Removal 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 8.5 below for all uncompleted obligations. The Permittee shall also restore on-site 0.12 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.2 below.

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

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- (1) Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.2, calculated at **\$294,444.44**/acre for 0.12 acres: **\$35,333.33**.
- (2) Removal and monitoring of 0.75 acres of water primrose from nearby Covered Species habitat in Morrison Creek for 3 years as described in Condition of Approval 8.5, calculated at \$11,270.48/acre for 0.75 acres: \$8452.86.
- (3) All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to primrose removal and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$48,786.19.
- 8.2. Habitat Restoration. Permittee shall restore on-site the 0.12 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 90 calendar days of issuance of this ITP, the Permittee shall prepare a Mitigation and Monitoring Plan (MMP) to facilitate restoration of the total 0.12 acre of Covered Species habitat within the Project Area, and submit the MMP to CDFW for review and approval. The MMP shall include detailed specifications for restoring the Project Area, such as planting methods or seed mixes and application methods, invasive species removal, grading plans, and rip rap replacement. The MMP shall also indicate the best time of year for planting or seeding to occur. Plantings shall include regular watering or contingency planting as appropriate to ensure success criteria is met. The MMP shall ensure restoration of impacted habitat and include use of a local California native plant palette, success criteria and the method used to assess these parameters, designated photo stations, annual Covered Species survey, three (3) year monitoring schedule, and corrective actions to be taken if success criteria are not met. The MMP shall be finalized and approved at least thirty (30) calendar days prior to the start of Covered Activities.
- **8.3.** Primrose Removal. Permittee shall remove 0.75 acres of water primrose from nearby Covered Species habitat in Morrison Creek. Within 6 months of issuance of this ITP, the Permittee shall prepare a Restoration Plan to facilitate water primrose removal of the 0.75 acres of from Covered Species Habitat in Morrison Creek and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for water primrose removal (e.g., methods used), map of the treatment area, monitoring metrics, photo documentation, and reporting standards for 3 years.
- **8.4.** Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not

- limited to transaction fees, account set-up fees, administrative fees, costs incurred from other state agency reviews, and overhead related to the restoration activities.
- **8.5.** 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 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
 - (1) <u>Security Amount</u>. The Security shall be in the amount of **\$48,786.19** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.
 - (2) <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
 - (3) <u>Security Timeline</u>. 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.
 - (4) <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
 - (5) <u>Security Transmittal</u>. 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 an escrow agreement, irrevocable letter of credit, or other.
 - (6) <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
 - (7) <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

For Habitat Restoration

Timely submission of all required reports.

IX. Amendment:

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

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XI. Liability:

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

XII. Compliance with Other Laws:

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

XIII. Notices:

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2025-016-02) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager California Department of Fish and Wildlife 1701 Nimbus Road Rancho Cordova, CA 95670 Telephone (916) 907-3438 R2CESA@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:

Region 2 CESA Desk 1701 Nimbus Road Rancho Cordova, CA 95670 Telephone (916) 907-3438 R2CESA@wildlife.ca.gov

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XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, the City of Sacramento. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Mitigated Negative Declaration, (SCH No.: 2021030186) dated March 2021 that the City of Sacramento adopted for Sump Station Facilities Improvement Project on August 19, 2021. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Mitigated Negative Declaration, the LSA, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

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

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evaluation, CDFW determined that the protection and management in perpetuity of 0.12 acres of compensatory habitat or the restoration of 0.75 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.

XVI. Attachments:

FIGURE 1 Project Location Map

FIGURE 2 Project Plans

FIGURE 3 Project Impacts Maps

ATTACHMENT 1 Mitigation Monitoring and Reporting Program

ATTACHMENT 2 Biologist Resume Form ATTACHMENT 3 Escrow Agreement Form

ATTACHMENT 4 Mitigation Payment Transmittal Form

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ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 7/30/2025



Morgan Kilgour, Regional Manager North Central Region

Figure 1: Project Location

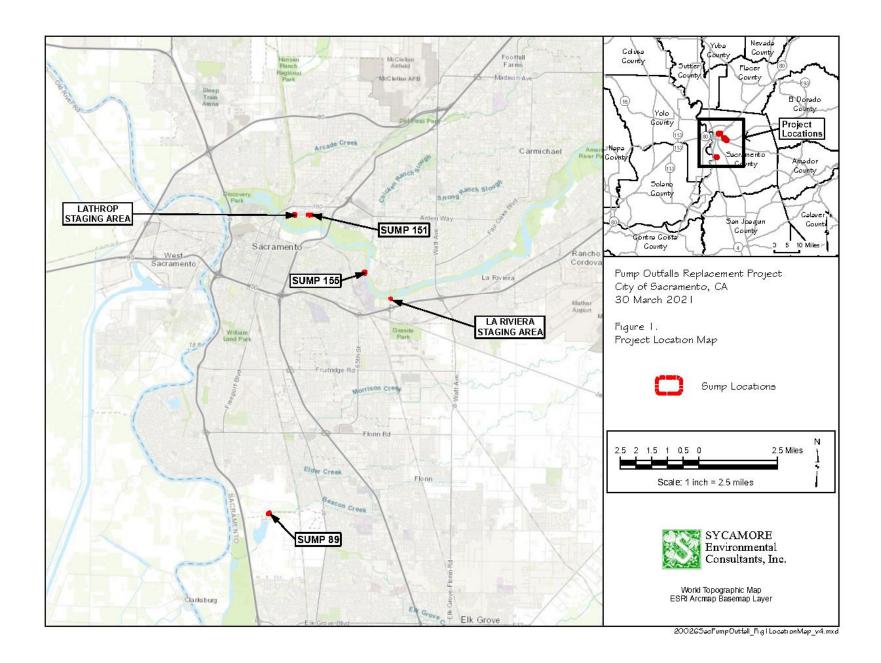
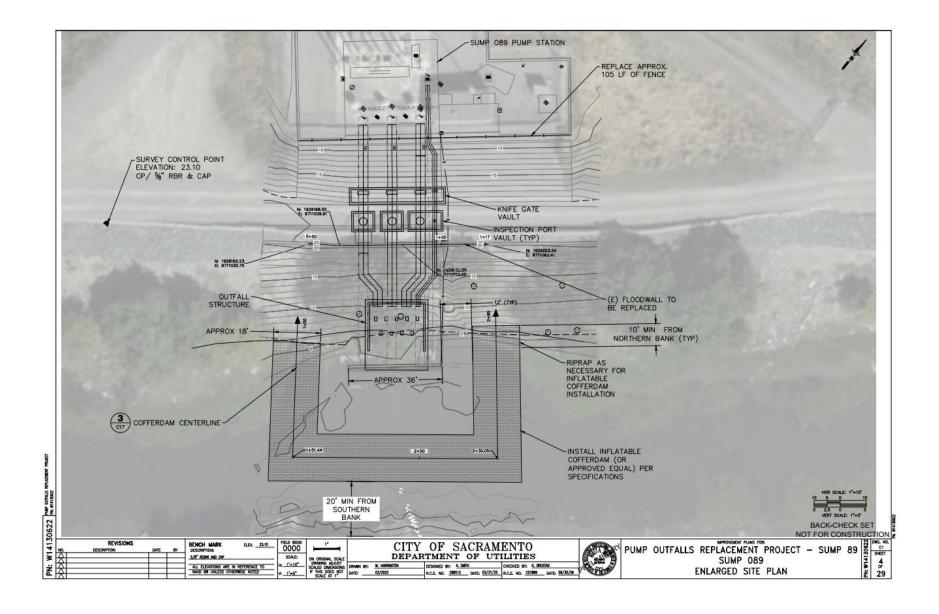
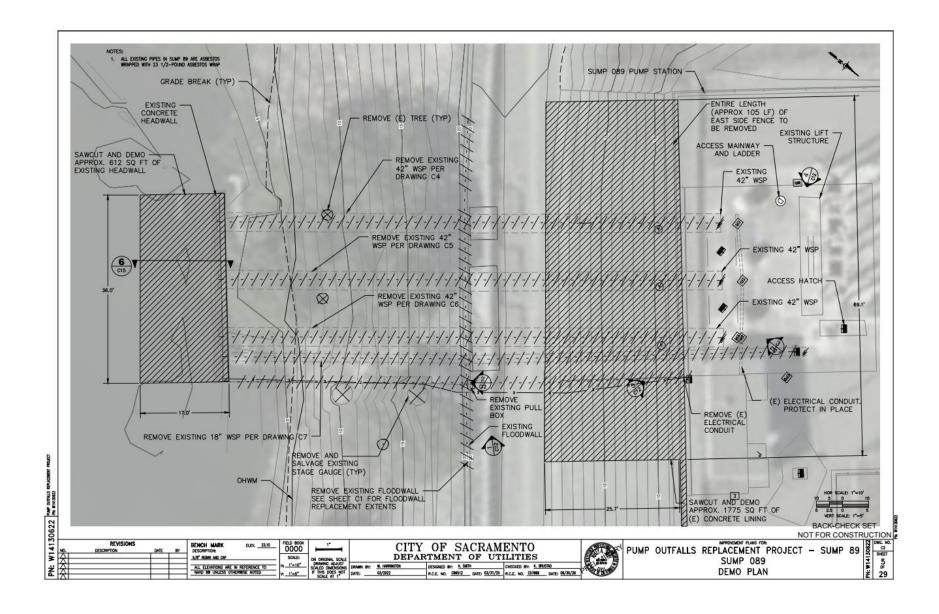
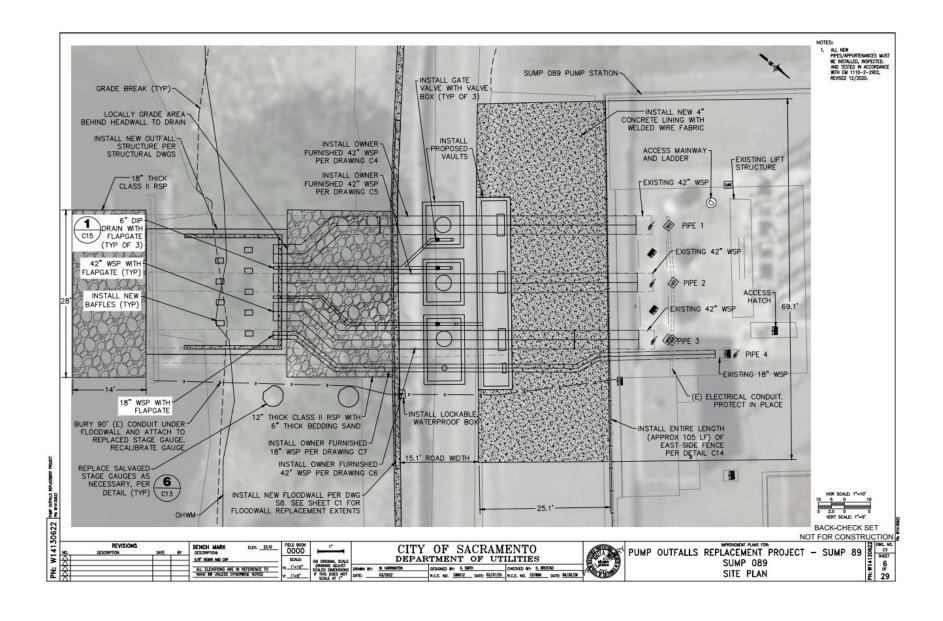
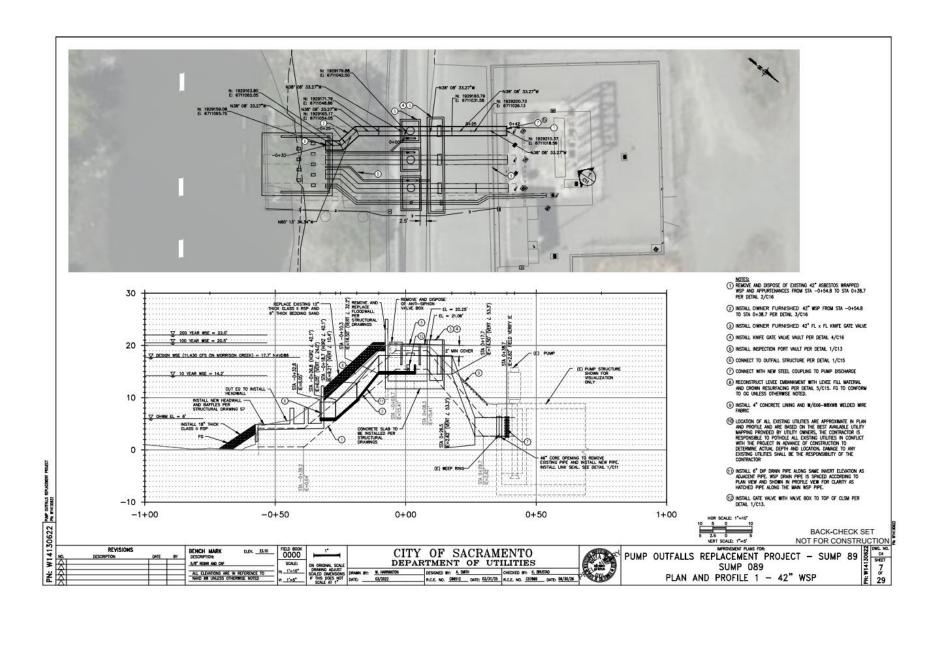


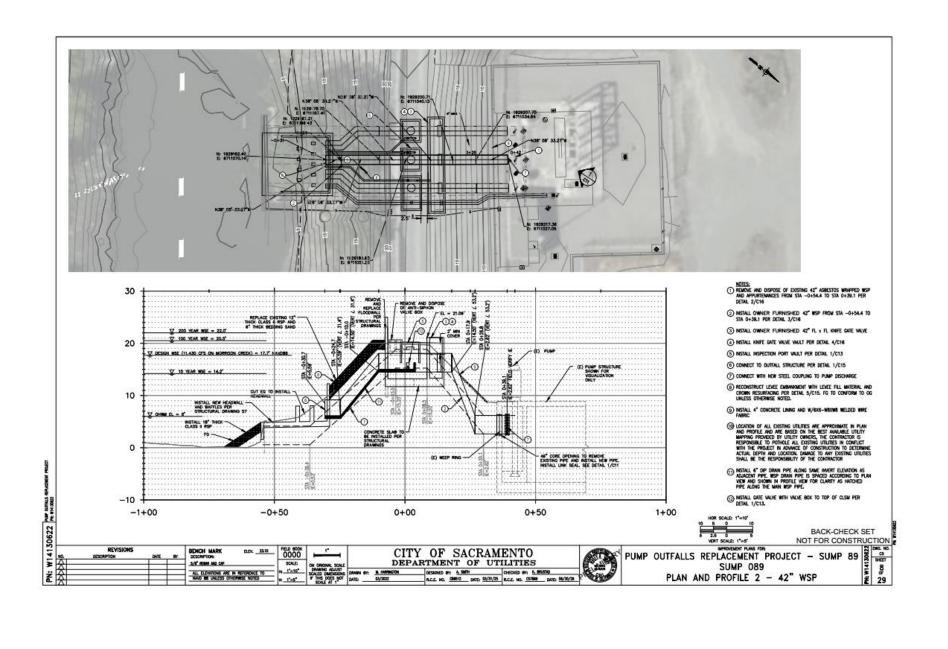
Figure 2: Project Plans

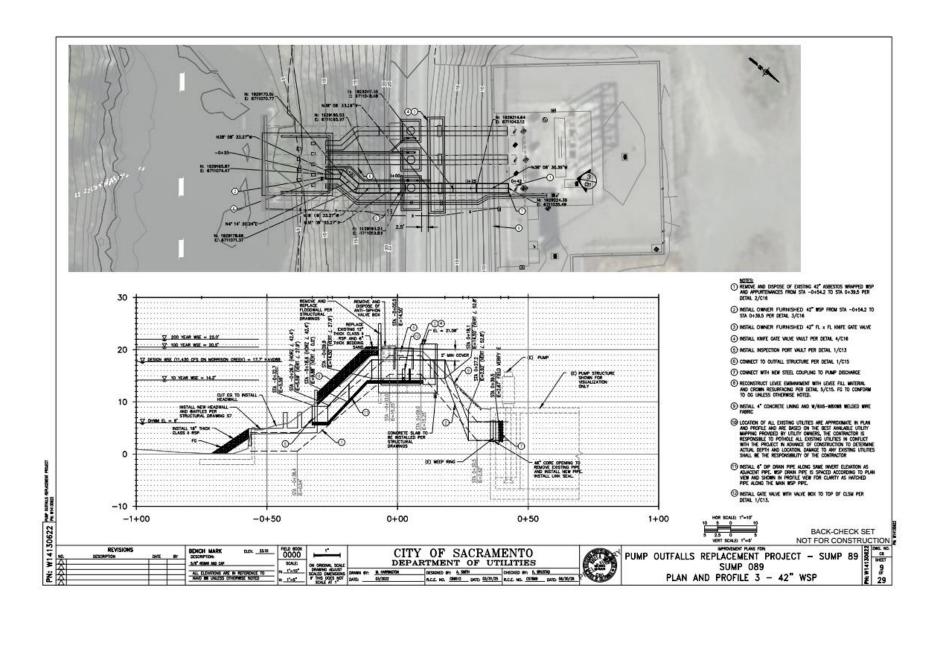












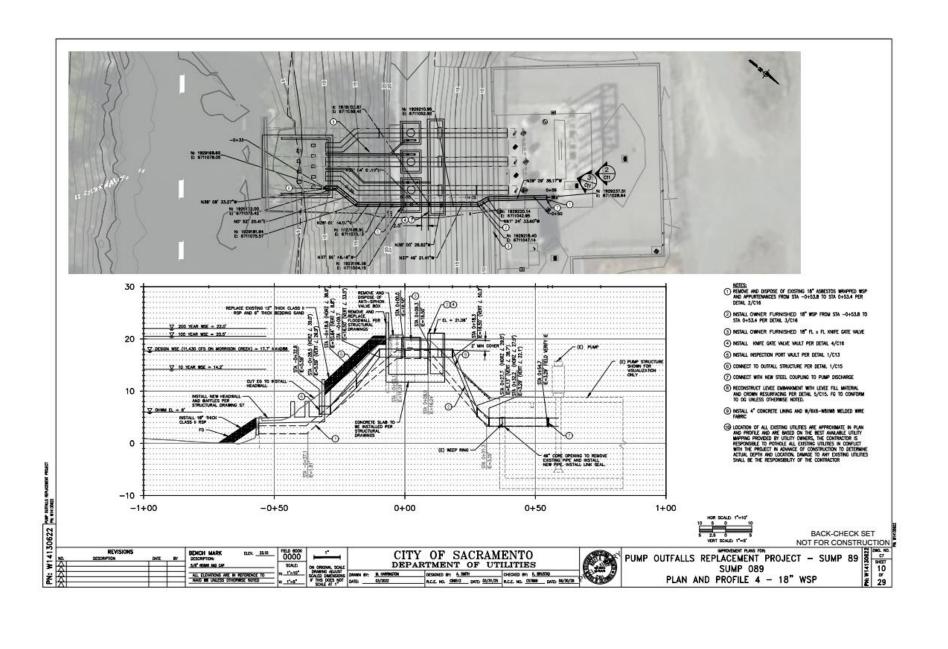


Figure 3. Project Impacts



E	4/4/25 4/17/25	Drafted map. Updated impact table	CM	BLANKINSHIP	11000	City of Sacramento Sump 089 Replacement	4/17/25
<u></u>	DATE	DESCRIPTION	INIT.			Project Impact Map	FIGURE: