

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 4 - CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710



STREAMBED ALTERATION AGREEMENT
EPIMS-MON-39383-R4
CANYON DEL REY CREEK AND FROG POND— MONTEREY COUNTY

TRANSPORTATION AGENCY FOR MONTEREY COUNTY
MICHAEL ZELLER
55B PLAZA CIRCLE
SALINAS, CALIFORNIA 93901

**FORT ORD REGIONAL TRAIL AND GREENWAY CANYON DEL REY/STATE ROUTE
218 SEGMENT PROJECT (PROJECT)**

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the Transportation Agency for Monterey County (Permittee), represented by Michael Zeller.

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on April 14, 2023, that Permittee intends to complete the Project described herein.

WHEREAS, pursuant to Fish and Game Code section 1603, CDFW has determined that the Project could substantially adversely affect existing fish or wildlife resources and has included Protective Measures in this Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed this Agreement and accepts its terms and conditions, including the Protective Measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the Project in accordance with this Agreement.

PROJECT LOCATION

The Project will occur at three locations within Canyon Del Rey Creek, which is tributary to Laguna Grande, and the associated Frog Pond along State Route 218 in the City of Del Rey Oaks, Monterey County, State of California (Figure 1). Location information for each Project site is provided in Table 1 below.

Table 1. Project Site Locations.

Site No.	Activity	Affected Water Body	Latitude	Longitude	Assessor's Parcel Number
1	Trail Construction at Work Memorial Park	Canyon Del Rey Creek	36.596406	-121.847865	012-551-006-000
2	Culvert Replacement and Rock Slope Protection Installation	Canyon Del Rey Creek	36.59348	-121.836349	012-521-004-000
3	Trail Construction at Frog Pond	Frog Pond	36.59395	-121.836005	012-522-001-000

PROJECT DESCRIPTION

The Project includes activities related to the construction of a section of a paved multi-use trail in Canyon Del Rey Creek, which is tributary to Laguna Grande, and the associated Frog Pond (also collectively, herein “stream”) (see generally Figures 2 and 3). Activity at Site 1 includes culvert installation, raised trail construction, construction of a drainage swale and infiltration area, and retaining walls. Activity at Site 2 includes culvert replacement and installation of rock slope protection. Activity at Site 3 includes construction of a raised trail pathway with retaining walls, two new drainage systems, and replacement of a footbridge. All Project activities will occur under dry stream conditions between April 15 and October 15, with the exception that vegetation planting may occur during wet season conditions.

Site 1 - Trail Construction at Work Memorial Park

The trail will be constructed by clearing and grubbing vegetation, excavating the area, installing the culverts, grading, and constructing the trail using earthen fill material, aggregate base, and hot mix asphalt. The trail will be 12 feet wide with a two-foot wide shoulder on either side, for a total width of 16 feet. It will consist of five inches of Type A hot mix asphalt over five inches of Class II aggregate base at 90% relative compaction, and the trail shoulders will consist of 10 inches of Class II aggregate base at 90% relative compaction. The trail will be up to seven feet above grade, with 3:1 horizontal to vertical side slopes to the surrounding grade. The side slopes will vary in width depending on the existing grade, generally ranging from 3.5 to 25 feet. The southern shoulder will have an approximately 1.5% grade draining towards the wetland to the south. The trail and the northern shoulder will have a 1.5% grade draining towards a swale constructed along the trail.

The swale will be constructed nine inches deep by three feet wide with a 456-foot long concrete section and a 328-foot long earthen section, draining to a 171-square foot infiltration area. The earthen swale and the infiltration area will be hydroseeded with a native seed mix, mulched, and covered with coir fiber rolled erosion control netting. The concrete swale will consist of four inches of concrete and wire mesh over six inches of Class II aggregate base. The infiltration area will consist of 24 inches of bioretention soil mix over 18 inches of drain rock Class II permeable. Two 12-inch diameter reinforced concrete pipe culverts with a 24-inch by 24-inch concrete drop inlet, concrete flared end section, and rock slope protection outfalls will be installed underneath the trail to allow drainage of surface flows from the northern side of the trail to the south, following

existing drainage patterns. The western culvert will convey overflow from the infiltration area and will be 3.3 feet long and the eastern culvert will be 30.6 feet long. The rock slope protection areas at each culvert outfall will be 7.3 feet long by 3 feet to 7.9 feet wide by 1.65 feet deep and will consist of Class I rock (six inches median diameter) over an eight-inch thick gravel filter layer. The total volume of the rock slope protection outfalls will be approximately 4.5 cubic yards. An area of up to six feet beyond the trail footprint will be used as a temporary access area. At the eastern end of the Project site, the trail will include construction of a six-foot tall by one-foot wide retaining wall on the upslope (north) side of the trail and a new five-foot tall by one-foot wide retaining wall and railing on the downslope (south) side of the trail. The downslope/south retaining wall will be constructed as close as one foot north of the stream channel that flows from east to west at this location. Retaining wall footings will be formed up with wood and poured in place with concrete trucked in and pumped to the foundation site. The constructed swale will be located above the upslope/north retaining wall, and will drain to the 12-inch diameter culvert to the west. The eastern portion of the stream channel will be temporarily impacted by construction work and access.

Excavation for trail structural section and retaining walls and placement of rock slope protection will be completed using heavy machinery. In total, approximately 110 cubic yards of clean earthen fill material will be imported to create the trail foundation, 95 cubic yards of aggregate base to create the trail base, and 95 cubic yards of hot mix asphalt to pave the trail surface. Three cubic yards of rock slope protection and gravel filter material will be placed within the wetland area during trail construction.

Construction access will occur mostly within the trail alignment. Construction staging areas will be located on existing pavement or disturbed areas adjacent to trails, including vacant or abandoned parking lots at Work Memorial Park. Temporary silt fencing will be installed along the downslope edge of the work area. Graded areas upslope and downslope of the trail alignment will be hydroseeded with a native seed mix, mulched, and Type B coir fiber rolled erosion control netting will be installed. Temporary fiber rolls will be installed along contour lines and a temporary fence will be installed along the upslope edge of the work area.

Site 2 - Culvert Replacement and Rock Slope Protection Installation

An existing 12-inch diameter storm drain drop inlet and culvert that outfalls to Canyon Del Rey Creek on the western side of State Route 218 will be removed and a new drainage system will be installed from the City of Del Rey Oaks Corporation Yard driveway to the stream and will drain the south side of State Route 218. The drainage system will consist of two concrete drop inlets and a 73.5-foot long and 12-inch diameter reinforced concrete pipe with rock slope protection on the stream banks and bed across the channel. Approximately 19.2 cubic yards of rock slope protection will be placed in an area 16 feet wide by 18 feet long by 1.8 feet deep and will consist of Class II rock (nine inches median diameter) over an eight-inch thick gravel filter layer.

The culvert and rock slope protection will be installed using heavy equipment. The existing culvert will be removed in conjunction with trenching for the new culvert pipe with an excavator. The area will be cleared, excavated, and the gravel filter layer and rock slope protection will be placed. The outlet pipe will be placed on top of the rock

slope protection using a backhoe or similar equipment. The work area will be accessed from the gravel/paved roads and parking lots at or adjacent to the City of Del Rey Oaks Corporation Yard. Construction staging areas will be located on existing pavement or disturbed areas adjacent to trails, including parking lots at Del Rey Park or the Corporation Yard. Temporary silt fencing will be installed along the downslope edge of the paved area. Disturbed soil upslope of the stream will be hydroseeded with a native seed mix, mulched, and Type B coir fiber rolled erosion control netting will be installed.

Site 3 - Trail Construction at Frog Pond

At Frog Pond, the trail alignment will include an eight-foot wide raised pathway approximately 3.25 feet above grade and a two-foot wide shoulder on either side of the pathway, for a total width of 12 feet. The trail will consist of six inches of plain cement concrete over six inches of Class II aggregate base at 90% relative compaction. The trail will switchback along the hillside sloping towards the pond, extending approximately 140 feet to the east, then turning back approximately 140 feet to the west and connecting with State Route 218 and onto Carlton Drive. The raised pathway will include a railing and two concrete retaining walls along the perimeter of the pathway. The first retaining wall will be located on the upslope side of the trail and will curve with the alignment to also support the downslope side of the switchback. The second retaining wall will be located between the trail alignment as part of the switchback. The retaining walls will be one foot wide by 316 feet long and 136 feet long, respectively. In addition, a nine-inch deep by three-foot wide concrete swale consisting of four inches of concrete and wire mesh over six inches of Class II aggregate base will be constructed above the upslope retaining wall, around the curve, under a new wooden footbridge (see below), and into Frog Pond.

The trail alignment within Frog Pond also includes the creation of a five-foot wide decomposed granite pathway that meanders south from the raised trail for approximately 68 feet before terminating at Frog Pond, including the removal of an existing footbridge and foundation and construction of a new footbridge. Two new drainage systems will be constructed. The first drainage system will consist of a two-foot wide by three-foot long concrete drop inlet at the east edge of State Route 218, a 21.3-foot long and 24-inch diameter corrugated metal pipe culvert, and a tee energy dissipator with rock slope protection draining towards Frog Pond. The rock slope protection will be eight feet long by six to 11.3 feet wide by 1.65 feet deep and will consist of Class I rock over an eight-inch thick gravel filter layer. The second drainage system will collect water from a large drainage area to the north of the pond and divert it away from two stream channels within the preserve that are tributary to the pond and will be graded. This drainage system will include multiple manholes and a 24-inch reinforced concrete pipe located at least one foot under the paved trail surface and outflowing onto rock slope protection under a new footbridge at the edge of Frog Pond. The rock slope protection will be 13.3 feet long by six to 18.2 feet wide by 1.8 feet deep and will consist of Class II rock over an eight-inch thick gravel filter layer. The new wooden footbridge will be approximately 10 feet wide by 18 feet long, and will have seven-foot (west) and 5.5-foot (east) long concrete grid paver approaches backfilled with decomposed granite. The bridge will have eight-inch vertical clearance from the flow line of the rock slope protection underneath.

The trail will be constructed by clearing and grubbing vegetation including 14 trees, excavating the area, and grading and constructing the raised pathway using aggregate base and concrete. The retaining wall between the switchbacks will be constructed first. This retaining wall will be constructed using driven soldier piles and timber lagging, using a top-down construction of the wall structure as to disturb as little soil as possible above the wall. Then the retaining wall above and below the switch back will be excavated, framed up, and poured in place as cantilever walls. The drainage system and trail will be constructed between the walls using excavators and backhoes. Fill and aggregate base will be placed using excavators and the concrete will be pumped on top from a truck on the roadway.

In total, approximately 300 cubic yards of earthen fill material will be imported to create the trail foundation and soldier pile wall engineered soil backfill, 89 cubic yards of aggregate base to create the trail base, and 89 cubic yards of plain cement concrete to create the trail surface. In addition, 387 cubic yards of concrete will be used to construct the cantilever retaining walls. Access will occur directly from State Route 218. Construction staging areas will be located on existing pavement or disturbed areas adjacent to trails or existing roadways. Temporary silt fencing will be installed along the downslope edge of the work area. Graded areas upslope and downslope of the trail alignment will be hydroseeded with a native seed mix, mulched, and Type B coir fiber rolled erosion control netting will be installed. Temporary fiber rolls will be installed along contour lines and a temporary fence will be installed along the upslope edge of the work area during work. Graded areas upslope and downslope of the trail alignment and retaining walls will be hydroseeded with a native seed mix, mulched, and Type B coir fiber rolled erosion control netting will be installed. A temporary fence will be installed along the edge of the pond during work.

Wetland Enhancement and Vegetation Planting

To offset Project construction impacts, Project areas will be enhanced and planted with native species. Two areas totaling 0.53 acres located within the stream floodplain in Work Memorial Park south of the trail alignment and the existing access road will be excavated approximately one to two feet. Grading will include over-excavation of three inches to accommodate the reapplication of stockpiled topsoil. The native soil will be mixed with clay soil during excavation to increase its water holding potential. Invasive grass species including kikuyu grass (*Cenchrus clandestinus*) will be removed along with the top three inches of soil. The next three inches of soil will be reserved for use as new topsoil. Plantings of chairmaker's bulrush (*Schoenoplectus americanus*) and California bulrush (*Schoenoplectus californicus*) sized 40 cubic inches will be installed at one-foot spacing within the lowest areas. Plug plantings of native rush (*Juncus* sp.) and sedge (*Carex* sp.) species will be planted in patches surrounding the depressions' bottom, spaced 1.5 feet apart. These patches will cover approximately 20 to 30 percent of the wetland area. The upper remainder of the excavated wetland area will be seeded with rush and sedge species and covered with bonded fiber matrix to improve retention of the seeds during seasonal flow periods. The outer edges of the wetland will be seeded with a native riparian restoration seed mix.

Four areas totaling 0.87 acres and located adjacent to Frog Pond and Canyon Del Rey Creek in the Frog Pond Wetland Preserve, and potentially in Work Memorial Park, will be planted with native riparian herbaceous and tree species. Container plantings will include coast live oak (*Quercus agrifolia*), California bay (*Umbellularia californica*), California buckeye (*Aesculus californica*), spreading gooseberry (*Ribes divaricatum*), California blackberry (*Rubus ursinus*), and California wild rose (*Rosa californica*). Tree plantings will occur consistent with the Protective Measures of this Agreement. Planting holes will be dug to 1.5 times the width of the container. Plants will be placed and the holes backfilled with native soil so that the rootball crown is up to 1.5 inches above grade. A berm will be established on the downslope side of each plant to assist in retaining moisture. A layer of weed- and debris-free mulch will be placed in the cleared areas around the installed plantings, with a space between the trunk and the mulch. Above-ground wire herbivory cages may be installed to protect trees. All plantings will be thoroughly watered following planting and a drip irrigation system may be installed for subsequent watering. Herbicide may be spot-applied to nonnative plants during establishment of native plantings.

PROJECT IMPACTS

The Project will result in construction impacts to approximately 0.18 acre at Site 1, 0.01 acre at Site 2, and 0.25 acre at Site 3. Up to 14 trees will be removed. Table 2 shows the numbers and sizes of each tree species to be removed.

Table 2. Trees to be removed.

Diameter at Breast Height (inches)	Species	Number of Trees to be Removed
4 to 12	Arroyo willow (<i>Salix lasiolepis</i>)	7
13 to 23	Coast live oak (<i>Quercus agrifolia</i> var. <i>agrifolia</i>)	1
	Arroyo willow	3
≥24	Coast live oak	1
	Arroyo willow	1
Total		13

The Project could also result in impacts to fish and wildlife resources from sedimentation and erosion resulting from ground disturbing activity; disturbed soils being carried downstream by subsequent flows, relocated, and re-deposited in areas used by fish and wildlife; pollution caused by vehicle or equipment leaks, dirty or contaminated equipment, or from concrete cement; introduction of nonnative species from equipment, tools, and machinery used previously at other locations; direct impacts including mortality caused by crushing of vegetation or of subterranean wildlife habitats; and noise, vibration, and other disturbance-related changes in wildlife behavior, resulting in nest abandonment, increased predation, reduced foraging efficacy, and other behavioral changes.

This Agreement is intended to avoid, minimize, and mitigate adverse impacts to the fish and wildlife resources that occupy the Project areas and the adjacent habitat. Absent implementation of the Protective Measures required by this Agreement, the species

listed in Table 3, as well as to other birds, mammals, fish, reptiles, amphibians, invertebrates, and plants that compose the local ecosystem could potentially be impacted by the Project.

Table 3. Special Status Species with Potential to be Impacted.

Species Names (Scientific, Common)		CRPR Rank	Federal Status	State Status
Plants				
<i>Potentilla hickmanii</i>	Hickman's cinquefoil	1B.1	E	E
<i>Cordylanthus rigidus ssp. littoralis</i>	Seaside bird's-beak	1B.1	-	E
<i>Chorizanthe pungens var. pungens</i>	Monterey spineflower	1B.2	T	-
<i>Arctostaphylos pumila</i>	Sandmat manzanita	1B.2	-	-
Animals				
<i>Bombus crotchii</i>	Crotch's bumble bee	-	-	C
<i>Bombus occidentalis</i>	Western bumble bee	-	-	C
<i>Ambystoma californiense</i>	California tiger salamander	-	T	T
<i>Rana draytonii</i>	California red-legged frog	-	T	SSC
<i>Taricha torosa torosa</i>	Coast range newt	-	-	SSC
<i>Thamnophis hammondi</i>	Two-striped garter snake	-	-	SSC
<i>Emys marmorata</i>	Western pond turtle	-	-	SSC
<i>Anniella pulchra</i>	Northern California legless lizard	-	-	SSC
<i>Agelaius tricolor</i>	Tricolored blackbird	-	-	T
<i>Elanus leucurus</i>	White-tailed kite	-	-	FP
<i>Athene cunicularia</i>	Burrowing owl	-	-	SSC
<i>Circus hudsonius</i>	Northern harrier	-	-	SSC
<i>Neotoma macrotis luciana</i>	Monterey dusky-footed woodrat	-	-	SSC
<i>Sorex ornatus salarius</i>	Monterey shrew	-	-	SSC
<i>Antrozous pallidus</i>	Pallid bat	-	-	SSC
<i>Lasiurus frantzii</i>	Western red bat	-	-	SSC

CRPR = California Rare Plant Rank; SSC = Species of Special Concern; E = Endangered; T = Threatened; C = Candidate for Listing; FP = Fully Protected

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1 Administrative Measures

Permittee shall meet each administrative Protective Measure described below.

- 1.1 Documentation at Project Site. Permittee shall make this Agreement, any extensions and amendments to this Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily

available at the Project site at all times and shall be presented to CDFW personnel or personnel from another State, federal, or local agency upon request.

- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of this Agreement and any extensions and amendments to this Agreement to all persons who will be working on the Project at the Project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a Protective Measure in this Agreement might conflict with a provision imposed on the Project by another local, State, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the Project site at any time to verify compliance with this Agreement.
- 1.5 Legal Obligations. This Agreement does not exempt Permittee from complying with all other applicable local, State, and federal law, or other legal obligations.
- 1.6 Unauthorized Take.
 - (a) This Agreement does not authorize the take (defined in Fish & G. Code, § 86 as to hunt, pursue, catch, capture, or kill; or attempt to hunt, pursue, catch, capture, or kill) of State- or federally-listed threatened, endangered, or candidate species. Any such take shall require separate permitting. Liability for any take of such listed species remains the separate responsibility of Permittee for the duration of the Project.
 - (b) Permittee shall take prudent measures to ensure that all take of threatened, endangered, and candidate species is avoided. Permittee acknowledges and fully understands that it does not have State incidental take authority. Permittee shall immediately notify CDFW of the discovery of any such threatened, endangered, or candidate species prior to and during Project implementation.
- 1.7 Property Not Owned by Permittee. To the extent that the Protective Measures of this Agreement provide for activities on another owner's property, they are agreed to with the understanding that Permittee shall first acquire the legal right to enter.
- 1.8 Work Schedule. Permittee shall submit a **work schedule** to CDFW at least seven days prior to beginning activities covered by this Agreement and within seven days of any changes to the work schedule.
- 1.9 Training. Prior to starting Project activity, all employees, contractors, and visitors who will be present during Project activities shall receive training from a qualified individual on the contents of this Agreement, the resources at stake, and the legal

consequences of non-compliance. Permittee shall maintain a sign-in sheet that includes the printed and signed name of each attendee, in addition to the name and qualifications of the person providing training, a copy of training materials, and the date of the training. Permittee shall provide these **training documents** to CDFW within seven days of the training.

2 Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each Protective Measure listed below.

- 2.1 Work Hours. All work activities shall be confined to daylight hours. For purposes of this Agreement, "daylight hours" are defined as that daytime period between sunrise and sunset.
- 2.2 Flagging. Prior to the start of Project activity, Permittee shall identify the limits of the required access routes and encroachment into the stream. These "work area" limits shall be identified with brightly colored flagging. Work completed under this Agreement shall be limited to this defined area only. Flagging shall be maintained in good repair for the duration of the Project. All stream areas beyond the identified work area limits shall be considered Environmentally Sensitive Areas and shall not be disturbed.
- 2.3 Listed and Other Special Status Species.
 - (a) Pre-Activity Surveys. Pre-activity surveys for potential rare, listed, or other special status species shall be conducted by a qualified biologist within 14 days prior to the start of work at any site. Surveys shall be conducted within the work area and all access routes to avoid and minimize take, confirm previous observations, identify any areas occupied by listed or other sensitive status species, and clearly mark all resources to be avoided by Project activities. A **Pre-Activity Survey Report** shall be submitted to CDFW within seven days of completing surveys. If any State- or federally listed threatened, endangered, or candidate species are found or could be impacted by the Project, Permittee shall notify CDFW of the discovery immediately and work shall not begin or continue until CDFW provides written authorization. An amended Agreement and/or a State Incidental Take Permit pursuant to Fish and Game Code section 2081, subdivision (b), and a new CEQA analysis may be necessary before the Project can begin.
 - (b) Reporting Observations to CNDDDB. If detections of any listed or other special status species are made during required surveys or during Project implementation, Permittee shall submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB via the online field survey form system (<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524419-online-field-survey-form>) for all detections and provide copies of the CNDDDB forms in the Final Report (see Reporting Measure 4.2(r)).

- (c) Crotch's Bumble Bee and Western Bumble Bee. A qualified biologist shall conduct a survey for Crotch's bumble bee and western bumble bee using a CDFW-approved protocol (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>) to detect bees and potential nesting sites during the vegetation blooming period immediately prior to commencing Project activities. Permittee acknowledges that this Agreement does not authorize take of Crotch's bumble bees and western bumble bees for identification. Permittee shall submit **survey reporting** to CDFW at least seven days prior to commencing any Project activities. If Crotch's bumble bees or western bumble bees and/or a nest are detected, Permittee shall halt work immediately or shall not commence work, whichever situation applies, and contact CDFW within 24 hours to develop adequate take avoidance measures for approval prior to the start of Project activity. If a nest is observed during surveys or at any time during the Project, take avoidance measures shall include protection for overwintering queens. If avoidance of take is not feasible, Permittee is advised that an Incidental Take Permit for Crotch's bumble bee and western bumble bee would be warranted prior to commencing or resuming the Project. Permittee shall not use herbicides marked with the U.S. Environmental Protection Agency's bee hazard icon and mixtures of herbicides. Permittee shall not use neonicotinoid insecticides, including nursery plants or seeds that have been treated with neonicotinoids. Permittee shall avoid spraying herbicides onto flowering plants, with special care to avoid taxa known to be utilized by the Crotch's bumble bee and western bumble bee.
- (d) California Tiger Salamander. All rodent burrows within the work area and a 50-foot buffer shall be flagged within 60 days prior to the start of each Project activity. A **map of burrow locations** shall be provided to CDFW at least seven days prior to the start of Project activities for any site. All burrows shall be avoided during Project activities by a minimum 50-foot no-disturbance buffer. A qualified biologist shall be present during all ground disturbing activities during the active season of the species (November through May) and shall halt Project activities if a California tiger salamander is detected in or within 50 feet of any work area, until the individual leaves of its own volition. CDFW shall be notified immediately if a salamander is detected for written guidance on how to proceed. Permittee is advised that a State Incidental Take Permit for California tiger salamander may be necessary prior to resuming Project activity. If avoidance of rodent burrows is not feasible, protocol-level surveys (which could require two years to complete) to detect presence shall be conducted by a qualified biologist, and **survey results** shall be submitted to CDFW for review at least 30 days in advance of Project initiation. If any individuals are detected or if CDFW does not concur that avoidance of take is feasible, Permittee shall acquire an Incidental Take Permit prior to beginning work.
- (e) California Red-Legged Frog. A qualified biologist shall survey the Project work area for California red-legged frog within 48 hours prior to commencing

work. Permittee shall submit **California red-legged frog survey results** to CDFW within seven days following the survey. If any California red-legged frogs are found prior to the Project or at any time during Project activities, work shall cease or shall not commence. Permittee shall contact CDFW within 24 hours of each detection and shall not proceed with Project activity until CDFW provides written approval for work to continue. All frogs that are detected shall be left where they were found and allowed to leave the work area of their own volition.

- (f) Coast Range Newt, Two-Striped Gartersnake, and Western Pond Turtle. Permittee shall allow all individuals of these species to move out of the work area of their own volition. If this is not feasible, a qualified biologist shall capture and relocate all coast range newts, two-striped gartersnakes, and adult western pond turtles out of harm's way to the nearest suitable habitat at least 100 feet from the work area. If a pond turtle nest is uncovered during Project activities, the eggs shall not be touched or moved and the nest shall be covered back with the removed soil and clearly marked for avoidance by Project activities. Permittee shall not move neonate turtles that are using a nest area. A summary of all capture and relocation activity and all pond turtle nests shall be included the Final Report, including mapping of nests and capture and release locations (see Reporting Measure 4.2(r)).
- (g) Northern California Legless Lizard. A qualified biologist shall survey the work area and a 50-foot radius for northern California legless lizards within 48 hours prior to the start of Project activity. Areas under logs and other cover objects shall be inspected and any loose substrate in which lizards could bury themselves shall be gently raked with a hand tool (e.g., a garden rake) to a depth of two inches to locate lizards. Individuals of this species shall be allowed to leave the work area of their own volition. If this is not feasible, a qualified biologist shall capture and relocate them out of harm's way to the nearest suitable habitat at least 100 feet from the work area. A summary of all detections and any lizard capture and relocation shall be included with the Final Report, including mapping of capture and release locations (see Reporting Measure 4.2(r)).
- (h) Tricolored Blackbird. If Project activity will occur between February 15, through September 15, no more than 10 days prior to the start of Project activity, a qualified wildlife biologist who is experienced surveying for nesting tricolored blackbirds shall survey all areas of suitable breeding habitat within the work areas and a 300-foot buffer for tricolored blackbird nests. **Survey reporting** shall be submitted to CDFW within seven days of completing surveys. If tricolored blackbird nests are found or could be impacted by the Project, Permittee shall notify CDFW immediately of the discovery, and Project activity shall avoid the nest/colony with a 300-foot no-disturbance buffer. If this buffer is not feasible, Permittee is advised that a State Incidental Take Permit for tricolored blackbird may be necessary prior to the start of Project activity.

- (i) White-Tailed Kite. If Project activities will occur during the avian nesting season of February 1 through August 31, a qualified biologist shall survey for nesting white-tailed kites within the work area and a ¼-mile radius of the work area, within 14 days prior to the start of Project activity. Permittee shall submit **survey results** to CDFW within 10 days of survey completion. If active nests are found, Permittees shall establish and maintain a minimum ¼-mile no-disturbance buffer around each nest until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, and the birds have fledged and no longer reliant upon the nest site for survival. Permittee may submit a written proposal to CDFW that includes a justification to reduce any buffers. Avoidance buffer variances shall only be implemented if CDFW has provided advance written approval.
- (j) Burrowing Owl. A qualified wildlife biologist shall survey for burrowing owls within the work area and a 500-foot radius of the work area, within 14 days prior to Project activity commencement. Surveys shall be conducted at appropriate times to maximize detection. Permittee shall submit **survey results** to CDFW within seven days of survey completion. If any active burrowing owl burrows are observed, Permittee shall establish and maintain a minimum 500-foot avoidance buffer around each owl burrow during the nesting season of February 1 through August 31. If active burrowing owl burrows are observed outside of the nesting season, a minimum 160-foot no-disturbance buffer shall be established around each burrow.
- (k) Monterey Dusky-Footed Woodrat. A qualified biologist shall survey the work area to identify woodrat houses within 14 days prior to Project activities. All active woodrat houses shall be avoided and protected during Project activities with a minimum 25-foot no-disturbance buffer. If houses cannot be avoided by this buffer, Permittee may request a reduced buffer in writing from CDFW or, if direct impacts to the woodrat house cannot be avoided, Permittee may submit a written **request to dismantle the house** to CDFW for written approval prior to commencing work. If approved by CDFW, a qualified biologist shall dismantle houses by hand during the nonbreeding season, between October 1 and December 31, allowing any animals to escape either along existing woodrat trails or toward other available habitat. If a litter of young is found or suspected, house material shall be replaced immediately and left alone for two to three days before a recheck to determine whether the animals have left. Dismantled houses may be reassembled in suitable habitat outside the work area, if identified in the request to CDFW. Permittee shall **document all woodrat houses dismantled** and any houses that were relocated, including maps of those locations, in the Final Report (see Reporting Measure 4.2(r)).
- (l) Monterey Shrew. A qualified biologist shall survey the work area prior to the start of Project activities to identify whether Monterey shrews are present on or within 50 feet of the work area. Monterey shrew habitat, leaf litter, or detritus present shall be gently raked with a hand tool (e.g., a garden rake) to

uncover potential burrows, crevices, stumps, fallen logs, or other cover areas where shrews or their nests could be under the surface. Any individuals detected in the work area shall be allowed to leave the work area of their own volition. If this is not feasible, they shall be captured by a qualified biologist and relocated out of harm's way to the nearest habitat at least 100 feet from the work area where it was found. A summary of all capture and relocation shall be included with the Final Report, including mapping of capture and release locations (see Reporting Measure 4.2(r)).

- (m) Bats. Surveys for roosting bats shall be performed by a qualified biologist within 30 days prior to the start of any Project-related activities, within the riparian and oak woodland roosting habitat in the work area and a 50-foot buffer. Surveys may include visual surveys of bats such as evening emergence surveys, inspection of suitable habitat for bat sign (guano), or use of ultrasonic detectors (i.e., Anabat). A **Bat Survey Report** that includes, but is not limited to, the survey methodology and biologist qualifications and, if bats are present, the colony size, roost location, and other characteristics shall be submitted to CDFW prior to commencing Project activity. If surveys confirm that bats are roosting, or if bat presence is assumed, Permittee shall develop a **Bat Exclusion Plan** and submit it to CDFW for written approval a minimum of seven days prior to any proposed activity that would entail the exclusion of bats (e.g., tree removal). The Bat Exclusion Plan shall outline how bats will be excluded/evicted from daytime roosts, outside the maternity season. Exclusion activities shall not begin until CDFW has provided written approval. If the initial survey had a negative finding, a repeat bat survey shall be conducted within seven days prior to the start of work to address the possibility of bats colonizing the trees before the Project begins. Detection of bats at that time will require a Bat Exclusion Plan as described above.
- (n) Special Status Plants. Special status plant species have the potential to occur in the work area. Permittee shall ensure that a qualified botanist conducts appropriately timed floristic surveys within two years prior to the start of Project activities using the CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). **Botanical survey reporting** shall be provided to CDFW within seven days prior to the start of Project activities. If special status plant species are identified, Permittee shall identify them with flagging and avoid with a 25-foot no-disturbance buffer. If avoidance is not feasible, Permittee shall consult with CDFW to determine whether alternate minimization measures for non-listed species are possible. Permittee may request a reduced buffer for non-listed plant species, but shall not encroach on the 25-foot buffer unless CDFW provides advance, written approval.

2.4 Fish and Wildlife.

- (a) If any fish or wildlife is encountered during the course of Project implementation, said fish or wildlife shall be allowed to leave the work area unharmed.
- (b) To protect nesting birds, no Project activity shall commence during the nesting season from February 1 through August 31 unless the following Avian Nesting Surveys are completed by a qualified biologist within seven days prior to Project activity. Permittee shall submit an **Avian Nesting Report** to CDFW within seven days of completing surveys. CDFW may consider variances from the buffers below when there is a compelling biological or ecological reason. Due to their special status designation and specific ecology, separate avian survey and avoidance requirements are listed above for tricolored blackbird, white-tailed kite, and burrowing owl (see Avoidance and Minimization Measures 2.3(h), 2.3(i), and 2.3(j)).
 - i. Birds of Prey. Survey for nesting activity of birds of prey within the work area and a 500-foot radius. If any active nests are observed, these nests shall be protected by a minimum 500-foot no-disturbance buffer until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest site.
 - ii. Other Nesting Birds. Survey for nesting activity within the work area and a 250-foot radius. If any nesting activity is found, these nests shall be protected by a minimum 250-foot no-disturbance buffer until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest site.

2.5 Vegetation.

- (a) Prior to initiation of Project activities, Permittee shall identify and clearly mark all trees and shrubs to be removed, to prevent accidental removal of trees and shrubs that should not otherwise be affected. The disturbance or removal of vegetation shall only occur within the flagged work areas.
- (b) Permittee shall restrict the disturbance of vegetation to the minimum amount necessary to complete the Project. Precautions shall be taken to avoid damage to vegetation outside the work area by people or equipment.
- (c) Vegetation removed from the stream shall not be stockpiled on the stream bed or banks.
- (d) Permittee shall document the number and species of all trees and shrubs measuring four inches diameter at breast height or greater that are removed during Project activities. Removed trees and shrubs shall be replaced by replanting appropriate native species at a minimum of 3:1 ratio (replaced to

lost), except that heritage trees measuring 24 inches or greater shall require replanting at a minimum of 10:1 ratio. These numbers shall inform the replanting requirement in Compensatory Measure 3.1.

- (e) Portions of nonnative, invasive plant species that are disturbed or broken by Project activity shall be bagged, removed from the work area, and appropriately disposed of off-site where the plant material cannot enter the stream. Nonnative species shall not be used in mulching, composting, or otherwise placed in or around the work area or other stream areas.
- (f) Permittee shall restrict the use of synthetic herbicides to the minimum amount necessary to accomplish Project activities. Permittee shall only use herbicides that are approved for aquatic use. If surfactants are required, they shall be restricted by Permittee to non-ionic chemicals that are approved for aquatic use by the California Department of Pesticide Regulation (CDPR).
- (g) The application and use of herbicides shall be environmentally safe, and shall be conducted in a manner consistent with directed and recommended methods. Permittee shall ensure compliance with all local, State, and federal regulations, and ensure that workers applying these chemical agents possess appropriate licenses.
- (h) Herbicide spraying shall not occur when wind speeds exceed 10 miles per hour (mph). All sprays shall contain a dye (registered for aquatic use by CDPR) to identify overspray.

2.6 Vehicles and Equipment.

- (a) Vehicles and equipment shall not be operated in areas where surface water or saturated soil is present.
- (b) Permittee shall inspect all vehicles, equipment, machinery, and hand tools for the presence of plant material and clean them prior to entering the work area to reduce the risk of introducing nonnative, invasive species.
- (c) Permittee shall check and maintain daily any equipment or vehicles driven and/or operated in or adjacent to the work areas to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic and terrestrial life.
- (d) Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of the stream. Stationary equipment such as motors, pumps, generators, compressors and welders, located adjacent to the stream or where fluids and other materials may enter the stream, shall be positioned over drip-pans. Vehicles shall be moved away from the stream prior to refueling and lubrication.

- (e) Vehicle access shall be limited to predetermined ingress and egress corridors delineated in construction plans. All other areas adjacent to the work area shall remain off limits to construction equipment.

2.7 Fill/Spoil.

- (a) Permittee shall use soils that are excavated and temporarily displaced to backfill excavations and limit imported fill quantity to the minimal amount necessary to accomplish Project activities. Permittee shall transport off-site excess fill material at Project completion.
- (b) Permittee shall not locate spoil storage sites where spoil will be washed into the stream, or where it will cover aquatic or riparian vegetation.
- (c) Permittee shall cover temporary spoil piles with plastic sheeting or visqueen to prevent rainy or windy conditions from eroding loose soils.
- (d) Rock, gravel, and/or other materials shall not be imported into or moved within the stream, except as otherwise addressed in this Agreement.
- (e) Material used as rip rap or rock slope protection shall consist of clean, natural rock that is free of debris, concrete rubble, and other material that is deleterious to fish and wildlife.

2.8 Erosion.

- (a) No work shall be conducted during rain or within 24 hours following rainfall of $\frac{1}{4}$ inch or more in a 24-hour period. All necessary erosion control measures shall be initiated prior to all storm events. Permittee shall monitor the National Weather Service 72-hour forecast for the work area.
- (b) All disturbed soils within the work area shall be stabilized to reduce erosion potential during and following Project activities. Temporary erosion control devices, such as straw bales, silt fencing, and sandbags, may be used, as appropriate, to prevent siltation of the stream. To minimize the risk of ensnaring and strangling wildlife, coir rolls, erosion control mats or blankets, weed free straw or fiber wattles, or similar erosion control products shall be composed entirely of natural-fiber, biodegradable materials. Permittee shall not use "photodegradable" or other plastic erosion control materials.
- (c) Any exposed banks or slopes created by Project activities shall be seeded (with weed-free straw or mulch) with a blend of a minimum of three locally native grass species. One or two sterile nonnative perennial grass species may be added to the seed mix provided their amount does not exceed 25 percent of the total seed mix by count. Locally native wildflower and/or shrub seeds may also be included in the seed mix. A **seed mixture** shall be submitted to CDFW for approval prior to application. Permittee shall complete

the seeding as soon as possible, but no later than November 15 of the year project activities ends or as otherwise approved in writing by CDFW. At the discretion of CDFW, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.

2.9 Pollution.

- (a) Permittee shall prevent raw concrete, cement or washings thereof, broken concrete, debris, silt, sand, bark, slash, sawdust, rubbish, oil or other petroleum products, lubricants, or any other substances that could be deleterious or harmful to fish, plants, aquatic life, or wildlife resulting from or disturbed by Project activities, from contaminating the soil and/or entering the "Waters of the State".
- (b) Permittee and all contractors shall be subject to the water pollution regulations found in Fish and Game Code sections 5650, 5652, and 12015.
- (c) Permittee shall remove all Project-generated debris, excess materials, and rubbish, including organic and food waste, from the stream and from areas where such materials could be washed into the stream. Permittee shall pick up daily and properly dispose of all such debris and waste at an appropriate site. When activity is completed, Permittee shall remove any excess materials or debris from the work area.
- (d) A **Spill Response Plan** shall be prepared and submitted to CDFW for written approval at least 14 days prior to the start of Project activities and kept on-site during the Project. The Spill Response Plan shall identify the actions that shall be taken in the event of a spill of petroleum products, concrete, contaminated soil, or other material harmful to fish, plants, or aquatic life. Response materials shall be kept at the site and readily available to allow rapid containment and cleanup of any spilled material. In the event that a spill occurs, all Project activities shall immediately cease until cleanup of the spilled material is completed. CDFW shall be notified immediately by Permittee of all spills.

2.10 Concrete.

- (a) Permittee shall install backup containment structures outside of any concrete forms or the applied areas to capture all wet concrete that could escape and prevent it from entering the stream outside of those structures.
- (b) No raw concrete material shall be poured if the five-day weather forecast indicates any chance of rain.

- (c) At all times when Permittee is pouring or working with wet concrete, a designated monitor must be present to inspect the containment structures.
- (d) Poured concrete shall be allowed to cure for a minimum of the time according to the following table:

Cement Type	Minimum Curing Time
ASTM C 150 Type III	3 days
ASTM C 150 Type I	7 days
ASTM C 150 Type II	10 days
ASTM C 150 Type IV or V	14 days

or until 70% of the specified compressive or flexural strength is attained, whichever is longer. Cold temperatures or other factors may contribute to a curing time longer than indicated in the table to pass the strength test.

- (e) Forms shall not be removed until after the end of the minimum curing period.
- (f) Water that encounters the curing concrete structures, including rain water and deliberately applied water for moist curing, shall be contained and isolated from the surrounding environment. The water shall be pH tested and removed from the site and disposed of lawfully if the pH exceeds 9.5.

2.11 Structures and Installed Features. Permittee confirms that all structures and installed features shall be properly aligned and otherwise engineered and installed to withstand high flows without failure; to assure resistance to washout and to erosion of the stream bed, stream banks, and/or fill; and that they will not adversely modify the existing upstream or downstream stream bed/bank contours or increase sediment deposition. Permittee shall ensure that all structures and other constructed features are designed to accommodate and withstand high flows during and following large storm events. Permittee shall remove from the stream structures any associated materials not designed to withstand high seasonal flows before such flows occur.

3 Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each Protective Measure listed below.

- 3.1 At least 30 days prior to starting Project activities, Permittee shall submit to CDFW a ***Final Wetland Enhancement and Revegetation Plan*** for written approval that identifies the specific locations and details of on-site native mitigation plantings at Work Memorial Park and the Frog Pond Preserve to replace vegetation removed and impacted during Project activities. Plantings shall be installed within one year

following the removal of vegetation. Permittee shall monitor and maintain plantings to ensure the following success criteria: 80% survival of tree and shrub plantings after five years, including up to three years with supplemental water and at least two years without such assistance; and 80% cover of native species in seeded areas. Photo point stations shall be established for monitoring and the station locations must be shown on the map. Any new plantings necessary to meet the 80% establishment criterion for tree and shrub plantings shall be subject to a new five-year minimum monitoring period. CDFW will review reports and beginning with year 5 post-planting shall determine whether performance criteria have been met. If performance criteria have been met, CDFW shall provide written confirmation.

- 3.2 Permittee shall submit **Annual Monitoring Reports** to CDFW by March 1 of each year for a minimum of five years following planting, documenting the success of mitigation plantings in becoming established, including photo documentation. Reports shall describe any remedial actions taken to meet the success criteria, such as subsequent plantings. Any subsequent remedial tree or shrub planting shall start a new five-year monitoring and reporting period to document the successful establishment of those plantings.

4 Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Obligations of Permittee.

- (a) Permittee shall have primary responsibility for monitoring compliance with all Protective Measures included in this Agreement. Protective Measures shall be implemented within the time periods indicated in this Agreement and the reporting program described below.
- (b) Permittee (or Permittee's designee) shall ensure the implementation of the Protective Measures of this Agreement and shall monitor the effectiveness of the Protective Measures.

4.2 Reports. Permittee shall submit the following Reports to CDFW:

- (a) A work schedule, submitted to CDFW at least seven days prior to start of Project activities and within seven days of any revisions to the schedule (Administrative Measure 1.8).
- (b) Training documentation, submitted to CDFW within seven days of training completion (Administrative Measure 1.9).
- (c) Pre-activity survey reporting, submitted to CDFW within seven days of completing surveys (Avoidance and Minimization Measure 2.3(a)).

- (d) Reporting of surveys for Crotch's bumble bee and western bumble bee, submitted to CDFW at least seven days prior to the start of Project activities (Avoidance and Minimization Measure 2.3(c)).
- (e) A map of rodent burrow locations, submitted to CDFW at least seven days prior to the start of Project activities at each site. Or, if burrow avoidance is not possible, survey results of protocol surveys for California tiger salamander, submitted to CDFW at least 30 days prior to the start of Project activities (Avoidance and Minimization Measure 2.3(d)).
- (f) Reporting of surveys for California red-legged frog, submitted to CDFW within seven days of completing surveys (Avoidance and Minimization Measure 2.3(e)).
- (g) Reporting of surveys for tricolored blackbird, if Project activity will occur during the nesting season, submitted to CDFW within seven days of completing surveys (Avoidance and Minimization Measure 2.3(h)).
- (h) Reporting of surveys for white-tailed kite, if Project activity will occur during the nesting season, submitted to CDFW within 10 days of completing surveys (Avoidance and Minimization Measure 2.3(i)).
- (i) Reporting of surveys for burrowing owl, submitted to CDFW within seven days of completing surveys (Avoidance and Minimization Measure 2.3(j)).
- (j) Requests to reduce no-disturbance buffers or to dismantle Monterey dusky-footed woodrat houses, submitted to CDFW for written approval prior to buffer reduction or dismantling activity (Avoidance and Minimization Measure 2.3(k)).
- (k) Reporting of bat surveys, and if bats are present a Bat Exclusion Plan, submitted to CDFW at least seven days prior to the start of Project activities (Avoidance and Minimization Measure 2.3(m)).
- (l) Reporting of Botanical Survey Reporting, submitted to CDFW at least seven days prior to the start of Project activities (Avoidance and Minimization Measure 2.3(n)).
- (m) Reporting of surveys for nesting birds, if any Project activity is scheduled during the avian nesting season, submitted to CDFW within seven days of completing surveys (Avoidance and Minimization Measure 2.4(b)).
- (n) A seed mix, submitted to CDFW for written approval prior to application (Avoidance and Minimization Measure 2.8(c)).

- (o) A Spill Response Plan, submitted to CDFW for written approval at least 14 days prior to the start of Project activities (Avoidance and Minimization Measure 2.9(d)).
- (p) A Final Wetland Enhancement and Vegetation Mitigation Plan, submitted to CDFW at least 30 days prior to the start of Project activity (Compensatory Measure 3.1).
- (q) Annual Monitoring Reports submitted to CDFW by March 1 of each year for at least five years following initial mitigation planting (Compensatory Measure 3.2).
- (r) A Final Report to be submitted within 30 days after the Project is completed. The Final Report shall summarize the Project implementation, including dates and relevant times of activities, and a discussion of how the Protective Measure of this Agreement were followed before and during Project activities. The Final Report shall include copies of reports of special status species to CNDDDB (Avoidance and Minimization Measure 2.3(b)), a summary of capture and relocation of coast range newt, two-striped garter snake, western pond turtle, northern California legless lizard, and Monterey shrew, and detections of western pond turtle nests (Avoidance and Minimization Measures 2.3(f), 2.3(g), and 2.3(l)), and documentation of all Monterey dusky-footed woodrat house dismantling (Avoidance and Minimization Measure 2.3(k)). Before, during, and after photo documentation of the work area taken from consistent photo points shall also be included.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through the Environmental Permit Information Management System (EPIMS) as instructed by CDFW. Project reporting and other Agreement requirements may be submitted to CDFW through EPIMS or sent by email to the contact below (or subsequent contact person) **in addition to** R4LSA@wildlife.ca.gov.

To Permittee:

Michael Zeller
Transportation Agency for Monterey County
55B Plaza Circle
Salinas, California 93901
EPIMS-MON-39383-R4
Phone: (831) 775-4416
mike@tamcmonterey.org

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To CDFW:

California Department of Fish and Wildlife
Region 4 - Central Region
1234 East Shaw Avenue
Fresno, California 93710
Attn: Lake and Streambed Alteration Program – Tal Starostinetsky-Malonek
EPIMS-MON-39383-R4
Phone: (559) 939-0266
Tal.Starostinetsky-Malonek@wildlife.ca.gov and
EPIMS.R4@wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of this Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the Project or any activity related to it that this Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with, the Project. The decision to proceed with the Project is Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with this Agreement.

Before CDFW suspends or revokes this Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes this Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in this Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking this Agreement.

Nothing in this Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, State, or local laws or regulations before beginning the Project or an activity related to it. For example, if the Project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the Fish and Game Code including, but not limited to, Fish and Game Code section 2050 et seq. (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

Nothing in this Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend this Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource. Permittee may amend this Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension" form. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of this Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of this Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension" form. Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of this Agreement, provided the request is made prior to the expiration of this Agreement's term. To request an extension, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension" form. Permittee shall include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend this Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the Project this Agreement covers (Fish & G. Code, § 1605, subd.(f)).

EFFECTIVE DATE

This Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; and 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA) and 3) after payment of the applicable Fish and Game Code section 711.4 filing fee listed at <https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA/Fees>.

TERM

This Agreement shall remain in effect for four years beginning on the date signed by CDFW, unless it is terminated or extended before then. All provisions in this Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after this Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

In approving this Agreement, CDFW is independently required to assess the applicability of CEQA. The features of this Agreement shall be considered as part of the overall Project description.

Permittee's concurrence signature on this Agreement serves as confirmation to CDFW that the activities conducted under the terms of this Agreement are consistent with the Project as described in the CEQA Environmental Impact Report for the Fort Ord Regional Trail and Greenway Project, Canyon del Rey/SR 218 Segment, prepared by the Transportation Agency for Monterey County as the Lead Agency and approved on March 25, 2020 (State Clearinghouse No. 2019060053); an Addendum 1 approved by the Transportation Agency for Monterey County on September 22, 2021; and an Addendum 2 approved by the Transportation Agency for Monterey County dated

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January 2023. Copies of the EIR, Addendum 1, and Addendum 2 were provided to CDFW by Permittee.

CDFW, as a CEQA Responsible Agency, shall submit a Notice of Determination to the State Clearinghouse upon signing this Agreement.

EXHIBITS

The documents listed below are included as exhibits to this Agreement and are incorporated herein by reference.

Figure 1. Project Location USGS Topographic Map

Figure 2. Project Site 1 Location Map

Figure 3. Project Sites 2 and 3 Location Map

AUTHORITY

If the person signing this Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the Project described herein. If Permittee begins or completes a Project different from the Project this Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with Fish and Game Code section 1602.

CONCURRENCE

Through the electronic signature by Permittee or Permittee's representative as evidenced by the attached concurrence from CDFW's Environmental Permit Information Management System, Permittee accepts and agrees to comply with all provisions contained herein.

The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.

Figure 1

Exhibit A

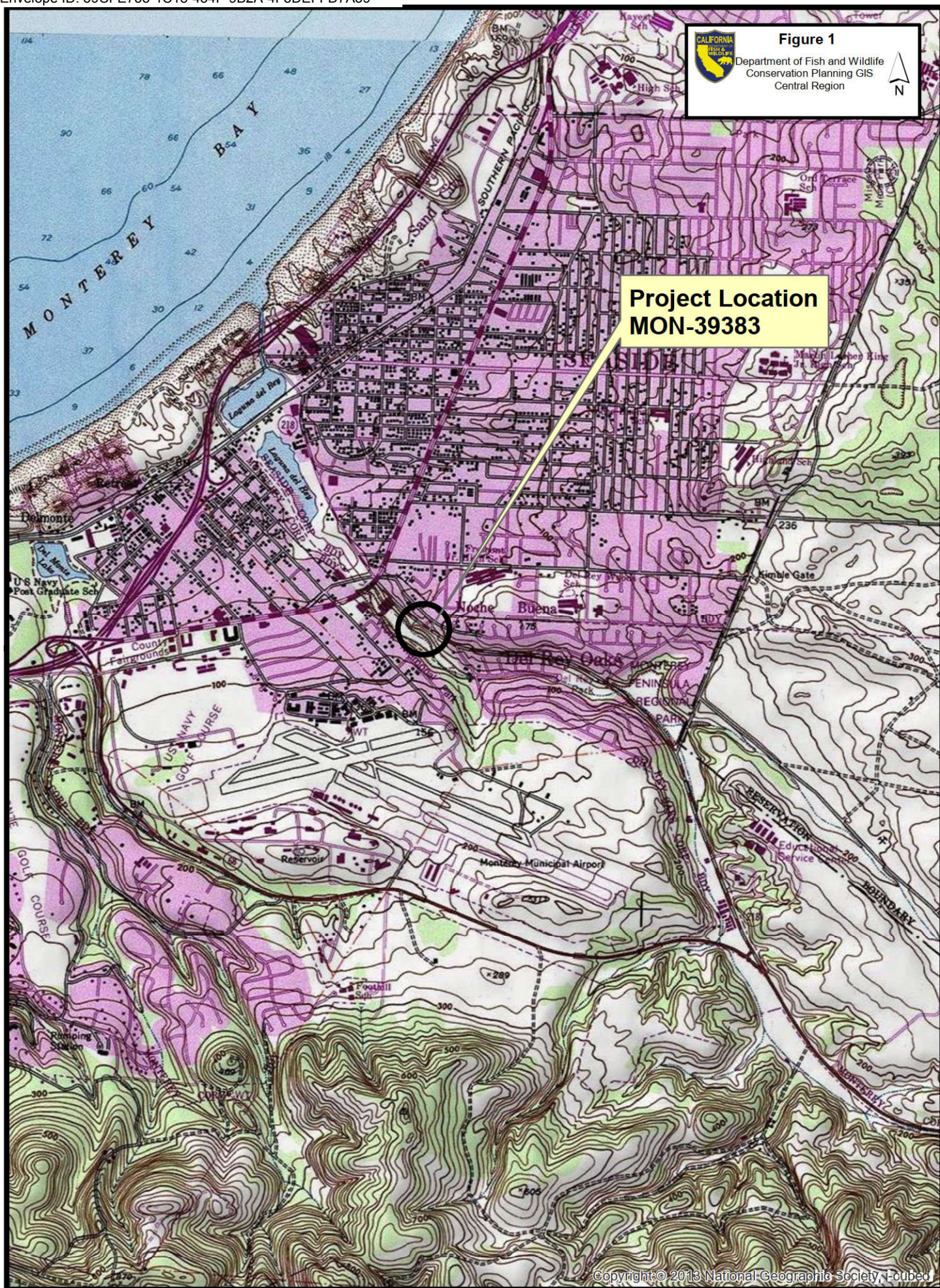


Figure 2

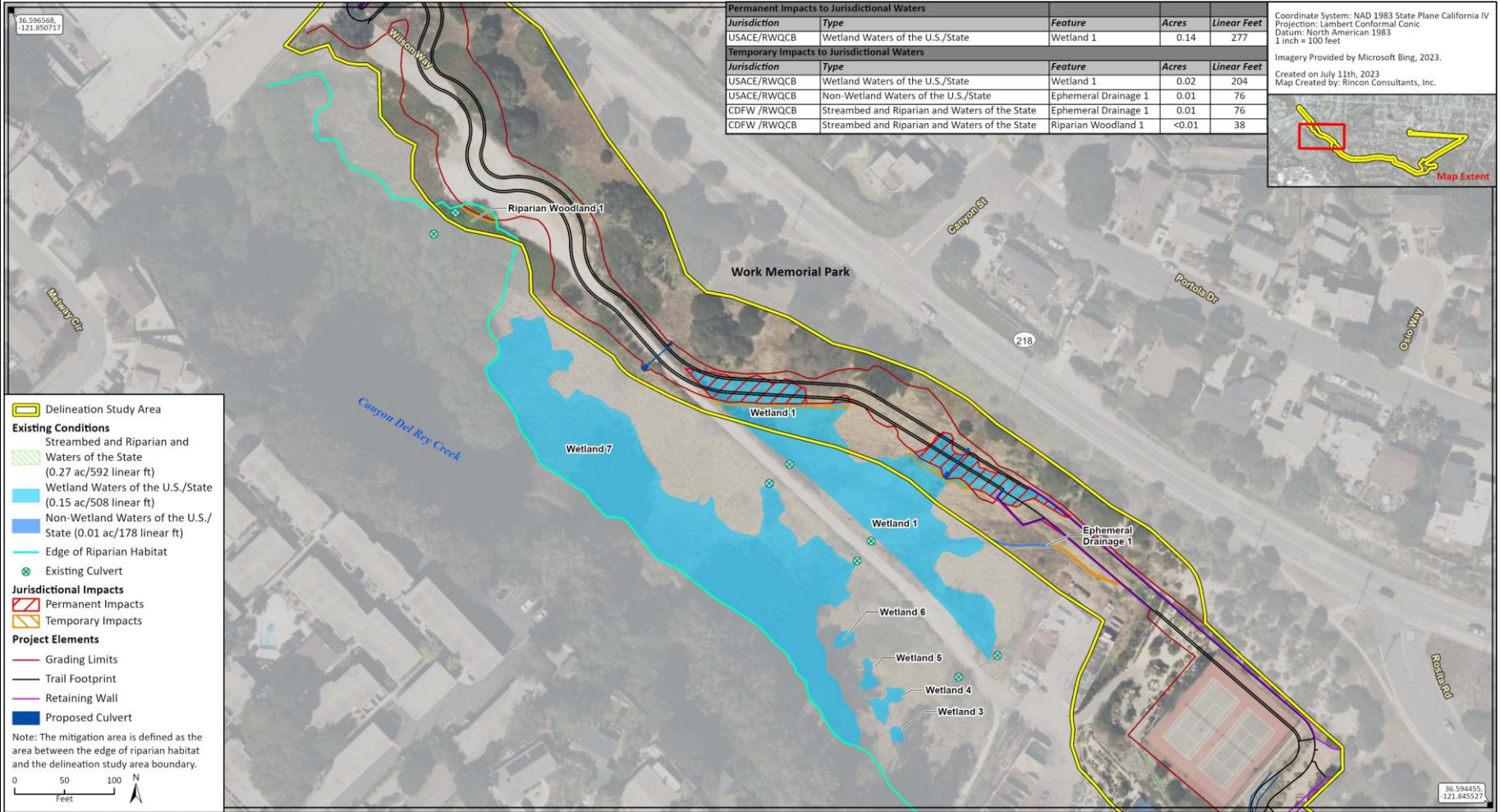


Figure 3

