



EAST CONTRA
COSTA COUNTY
HABITAT
CONSERVANCY

GOVERNING BOARD

REGULAR MEETING

Wednesday, March 17, 2010
12:00 p.m.

City of Oakley
City Council Chambers (in the room behind the dais)
3231 Main Street, Oakley, CA 94561

AGENDA

- 1) **Introductions. Welcome new member of the Governing Board.**
- 2) **Public Comment** on items that are not on the agenda (public comment on items on the agenda will be taken with each agenda item).
- 3) **Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of December 16, 2009.**
- 4) **Consider ACCEPTING update on the Souza II Wetland Restoration Project and recent field surveys.**
- 5) **Consider the following actions related to legislative matters:**
 - a) **ACCEPT report on briefing booklet, “California Habitat Conservation Planning Coalition, Cooperative Endangered Species Conservation Fund: Fiscal Year 2011 Funding Request”**
 - b) **ACCEPT report on Conservancy correspondence and meetings with Administration and Congressional representatives as part of continued efforts to pursue the Conservancy’s 2010 Legislative Platform in conjunction with the California Habitat Conservation Planning Coalition.**
 - c) **AUTHORIZE letter of support to Contra Costa County for grant application to Caltrans Community-Based Transportation Planning (CBTP) to fund for the Knightsen/Byron Area Transportation Study.**

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

- 6) Consider **ACCEPTING** report on **2010 Adjustment of Mitigation Fees**. The Mitigation Fees have been adjusted pursuant to the indices and procedures set forth in **East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP)**
- 7) Consider **APPROVING** minor correction to the “**Protocol for Covering Communication Towers Under the HCP/NCCP**” previously approved by the Governing Board on December 17, 2008.
- 8) Consider **AUTHORIZING** staff to execute a **Participating Special Entity Agreement with the Bay Area Rapid Transit District (BART) to extend take coverage for the eBART Phase I project**.
- 9) Consider **AUTHORIZING** staff to execute a **Participating Special Entity Agreement with the California Department of Transportation (Caltrans) to extend take coverage for the CC4 Median Buffer and Shoulder Widening Project**.
- 10) Consider **ACCEPTING** report on the **Draft East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan 2008/2009 Annual Report**. **REVIEW** the Draft, **PROVIDE** initial comments, **REFER** the Draft to the **Public Advisory Committee (PAC)** and the agencies signatory to the **HCP/NCCP Implementing Agreement**, and **SCHEDULE** consideration of approval of the document for the **June 16, 2010 Governing Board meeting**.
- 11) **AUTHORIZE** staff to execute contracts for on-call maintenance services with the following companies:
 - **Pacific OpenSpace: \$25,000 with a term through December 31, 2010;**
 - **Restoration Resources: \$50,000 with a term through December 31, 2010; and**
 - **Thunder Mountain Enterprises, Inc: \$25,000 with a term through December 31, 2010.**
- 12) **Adjourn. (We expect to adjourn before 1:30 p.m.)**

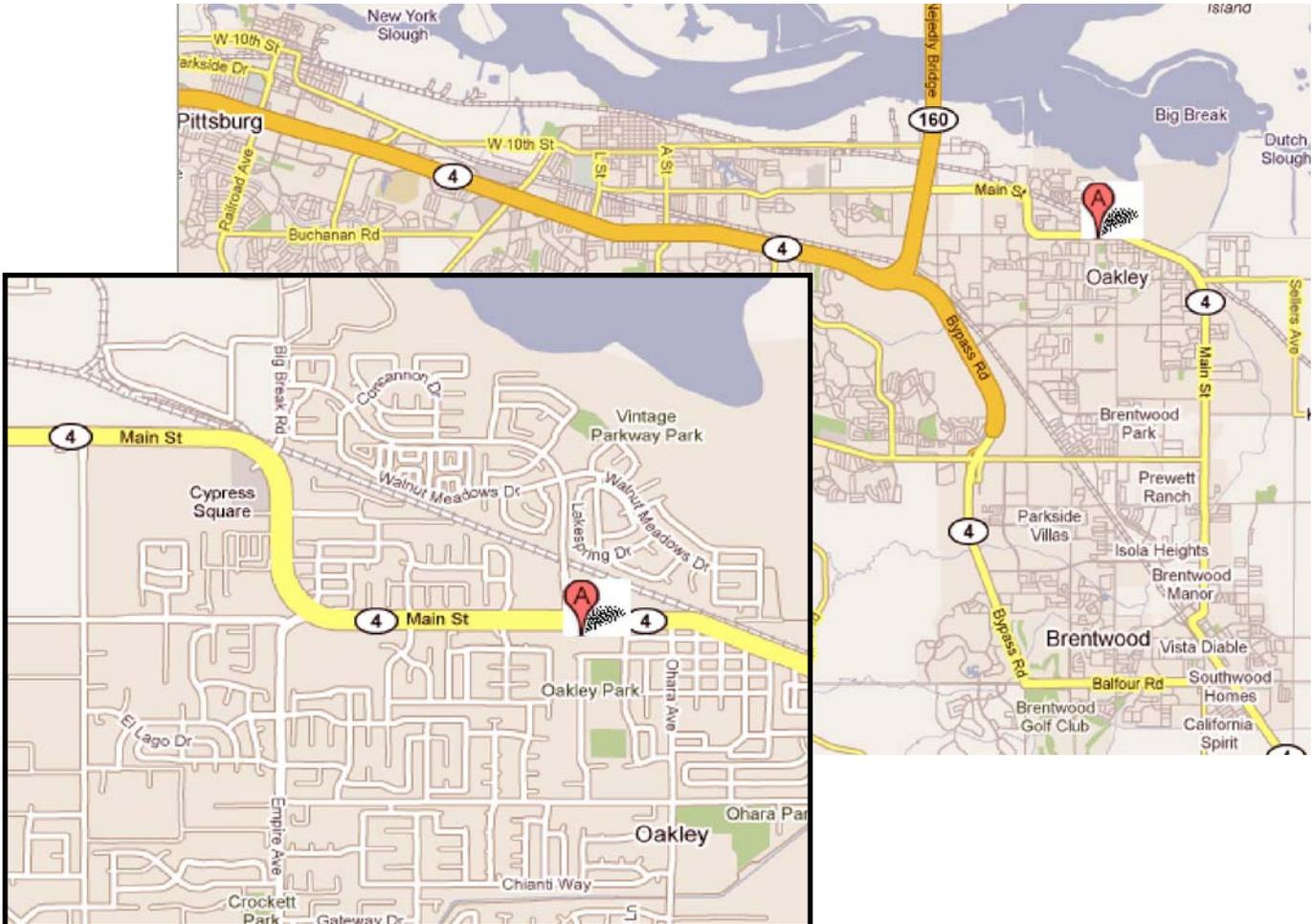
If you have questions about this agenda or desire additional meeting materials, you may contact John Kopchik of the Contra Costa County Department of Conservation and Development at 925-335-1227.

The Conservancy will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 24 hours before the meeting.

MAP TO MEETING LOCATION

City of Oakley, City Hall
City Council Chambers
3231 Main Street, Oakley, CA 94561

← **NEW LOCATION!**



Directions from Pittsburg and Central County

- Take **Hwy 4 East** toward Antioch/Stockton
- **Exit** and turn **RIGHT** on Main St/Hwy 4 California Delta Highway
- 3231 Main St is on your Right.

Directions from Brentwood

- Take **Brentwood Blvd/ Hwy4/ California Delta Hwy** toward Oakley
- 3231 Main St is on your Left.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Governing Board Roster and Officers for 2010

Attached please find the 2010 Conservancy Governing Board Roster. Pittsburg Mayor Salvatore Evola has been appointed as the City's primary representative to the Governing Board. We welcome Mayor Evola to the Board.

In January 2009, the Conservancy Governing Board established a protocol for rotating the Chair and Vice Chair positions. These positions rotate alphabetically by jurisdiction, starting in 2009 with County as Chair and Oakley as Vice Chair.

For 2010, the Chair of the Governing Board is Oakley City Council Member Bruce Connelley and the Vice Chair is Pittsburg Mayor Salvatore Evola.

In January 2011, the positions will rotate again with the City of Pittsburg representative as Chair and City of Brentwood representative as Vice Chair.

Encl: Conservancy Governing Board Roster

Governing Board
East Contra Costa County Habitat Conservancy
March 12, 2010

Representative	Agency/Organization
Vice Mayor Erick Stonebarger	City of Brentwood
Council Member Brandon Richey*	City of Brentwood
Mayor Hank Stratford	City of Clayton
Vice Mayor David Shuey*	City of Clayton
Supervisor Federal Glover	Contra Costa County
Supervisor Mary Piepho*	Contra Costa County
Council Member Bruce Connelley	City of Oakley
Mayor Pat Anderson*	City of Oakley
Mayor Salvatore Evola	City of Pittsburg
Council Member Will Casey *	City of Pittsburg

* Alternate

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Meeting Record for December 16, 2009 Governing Board Meeting

RECOMMENDATION

APPROVE the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of December 16, 2009.

DISCUSSION

Please find the draft meeting record attached.

CONTINUED ON ATTACHMENT: Yes
ACTION OF BOARD ON: March 17, 2010 APPROVED AS RECOMMENDED: _____
OTHER _____

VOTE OF BOARD MEMBERS

___ UNANIMOUS

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

BY: _____, DEPUTY

Draft Meeting Record

East Contra Costa County Habitat Conservancy
Governing Board Meeting
December 16, 2009

1) Introductions.

Governing Board members in attendance were:

Federal Glover	Supervisor, Contra Costa County (Chair)
Will Casey	Councilman, City of Pittsburg
Hank Stratford	Councilman, City of Clayton
Eric Stonebarger	Vice Mayor, City of Brentwood

Other Attendees:

Joe Ciolek	Agricultural/Natural Resource Trust of Contra Costa County
Suzanne Gilmore	California Department of Fish & Game
Mark Muller	Contra Costa County Water District

Conservancy Staff members in attendance were:

John Kopchik	Conservancy Staff
Abby Fateman	Conservancy Staff
Krystal Hinojosa	Conservancy Staff

2) Public Comment. No public comments.

3) Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Special Meeting of September 16, 2009. The Board approved the Meeting Record. (3-0: Stonebarger, Stratford, Casey).

4) Consider DETERMINING Governing Board meeting time and locations in 2010. The Board set future meeting times to be 12:00 noon and authorized staff to provide a light lunch. (4-0: Glover, Stonebarger, Stratford, Casey).

5) Consider DETERMINING representation on Public Advisory Committee (PAC) for 2010. The Board approved Item 5 as presented in the staff report. (4-0: Glover, Stonebarger, Stratford, Casey).

6) Consider ACCEPTING update on the Souza II Wetland Restoration Project. The Board accepted the update. Ms. Fateman provided a powerpoint presentation highlighting construction of the project to date. The presentation depicted the restoration design schematic, the wetlands and ponds created/enhanced onsite including water retention over the past several months. Ms. Fateman explained the site has been holding up fairly well during all the past several rain storms including the storm in October which was calculated as a 1000 year storm for Byron. However, a restored swale carrying runoff from Vasco Road is being damaged by erosion. In order to provide a temporary fix to the problem BMP’s where installed such as hay bales and waddles until the site can be repaired during the dry season. 15,000 plants grown by the Watershed nursery were planted in early December. (4-0: Glover, Stonebarger, Stratford, Casey).

7) Consider APPROVING the 2010 Conservancy Work Plan. The Board reviewed and approved the 2010 Conservancy Work Plan with modifications, as detailed below. Mr. Kopchik noted that there are several items added to the 2010 Work Plan. In the first two years of implementation, restoration was a key focus and the Conservancy is successfully ahead of impacts as a result of focused efforts. In 2010, due to continued slow pace of impacts, budget constraints, and limited easy-to-restore restoration sites, restoration efforts are proposed to slow. During 2010, staff will focus on riparian planting projects at existing Preserve properties with the intention to enhance volunteer participation. At the close of 2009, the Conservancy will have a total of 4,800 acres preserved of 30,000 required over the 30 year permit term, which means the Conservancy has been operating at a pace of about 2,000 acres per year (the constant pace necessary to conserve 30,000 acres over 30 years in 1000 acres per year). Chair Glover requested that staff provide an update presentation to Permittee Governing Boards during 2010. Mr. Kopchik suggested the upcoming 2008-2009 Annual Report would be ideal vehicle for performing such presentation and the Board agreed. Mr. Stonebarger requested Staff edit task #5 of the Work Plan for “Actions Taken in 2009” to read as “The calculations were preformed in March 2009”. Mr. Stonebarger also suggested that at future meetings staff provide the Board with a simple spreadsheet outlining the Land Acquisition goals & accomplishments to provide a simple overview of how the Conservancy was doing relative to requirements (4-0: Glover, Stonebarger, Stratford, Casey).

8) Consider APPROVING “Policy on Land Acquisition in Wind Turbine Areas” as revised since Governing Board Meeting on September 16, 2009. The Board approved the revised “Policy on Land Acquisition in Wind Turbine Areas,” as recommended in the staff report. Mr. Kopchik explained the Policy had been revised since the September 16, 2009 Board Meeting to replace the provision encouraging the Conservancy to not renew wind leases, as directed by the Board. The changes were developed in conjunction with the wildlife agencies. The revised Policy does not immediately discourage wind lease renewal but rather focuses on reducing impacts if renewal does occur and provides for non-renewal of leases if all other measures have failed. The exact method for memorializing the policy was still being discussed with the wildlife agencies (4-0: Glover, Stonebarger, Stratford, Casey).

9) Consider the following ACTIONS related to grants from the California Wildlife Conservation Board:

a) AUTHORIZE Executive Director to sign all documents necessary to execute an agreement with the California Wildlife Conservation Board that would provide \$6,531,054 from the federal Cooperative Endangered Species Conservation Fund (“Section 6 Funds”) for land acquisition projects consistent with the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (“HCP/NCCP”).

b) AUTHORIZE Executive Director to sign all documents necessary to execute an agreement with the California Wildlife Conservation Board that would provide \$555,000 from the federal Cooperative Endangered Species Conservation Fund (“Section 6 Funds”) for the acquisition of the Fox Ridge Property. The Board approved actions for Items 9(a) and 9(b) as outlined in the Staff Report (4-0: Glover, Stonebarger, Stratford, Casey).

Item 9(a). Mr. Kopchik explained that Item (a) was brought to the Board during the July 16, 2009 meeting and was approved at that time pending review and approval of needed modifications to the Agreement. Since that time, staff has worked with WCB to modify the Agreement and develop terms acceptable to the Conservancy. Major areas of concern have been revised.

Item 9(b). Mr. Kopchik explained that following the initial \$6.531 million block grant, there would be one grant agreement for every acquisition. However, WCB staff has been authorized by the WCB Board to approve all future grant agreements under the Fy07, 08 and 09, authority that will negate the need to return to a quarterly WCB Board meeting for approval. A separate grant agreement is needed for Fox Ridge because it is not covered by the FY06 block grant agreement.

10) Consider the following actions related to legislative matters:

- a) **ADOPT the 2010 Legislative Platform;**
- b) **ADOPT Resolution 2009-03 to support working together with agencies from across California to request that the United States Congress increase overall funding of the U.S. Fish and Wildlife Service Cooperative Endangered Species Fund by approximately \$40 million in the Fiscal Year 2011 Interior and Related Agencies Appropriations bill;**
- c) **AUTHORIZE the Chair or staff, as appropriate, to communicate items on the Platform to relevant members and staff of the U.S Congress and the California Legislature, relevant federal and state agencies, potential advocacy partners and others; and**
- d) **AUTHORIZE a \$5,000 contribution toward the California Habitat Conservation Planning Coalition membership in 2010.**

The Board approved actions for Items 10(a), 10(b), 10(c), and 10(d) as outlined in the Staff Report. Mr. Glover asked staff to let the Board know if there is more that can be done to support the Conservancy's Legislative Platform. Mr. Kopchik welcomed the suggestion and indicated that staff would advise the Board of opportunities to further the Platform. Participation in and funding for the Habitat Conservation Planning Coalition will be critical to the Conservancy's success. (4-0: Glover, Stonebarger, Stratford, Casey).

11) Consider the following actions related to Conservancy finances:

- a) **APPROVE the 2010 Conservancy Budget.**
- b) **AUTHORIZE staff to execute an agreement with the East Bay Regional Park District for the provision of specific land acquisition services during 2010.**
- c) **AUTHORIZE staff to amend existing contracts for on-going biological and conservation planning services with:**
 - **ICF Jones and Stokes: increase the payment limit by \$147,000 from \$220,000 to \$367,000 and extend the term through June 30, 2010;**
 - **H.T. Harvey and Associates: increase the payment limit by \$25,000 from \$43,000 to \$68,000 and extend the term through June 30, 2010; and**
 - **Monk and Associates: increase the payment limit by \$11,500 from \$20,000 to \$31,500 and extend the term through December 31, 2010.**
- d) **AUTHORIZE staff to amend an existing contract for legal services with Resources Law Group to increase the payment limit by \$30,000, from \$90,000 to \$120,000, and extend the term to June 30, 2010.**
- e) **AUTHORIZE setting the calendar year as the Conservancy fiscal year.**

The Board approved actions for Items 11(a), 11(b), 11(c), 11(d), and 11(e) as outlined in the staff report. Mr. Kopchik explained the 2010 Conservancy Budget, indicating that other than land acquisition expenditures which are essentially flat in 2010; the total allocations for all other categories are down 28% from the 2009 Budget. Program administration is up by \$20k and restoration is down by 66% while spending on monitoring will go up in 2010. (4-0: Glover, Stonebarger, Stratford and Casey).

12) Adjourn. Meeting Adjourned until the next regularly scheduled meeting on March 17, 2010, at the City of Oakley.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Update on Souza II Wetland Restoration Project and Recent Field Surveys

RECOMMENDATION

ACCEPT update on the Souza II Wetland Restoration Project and recent field surveys.

BACKGROUND

The Board approved the Project at the July 16, 2009 meeting and detailed background information on the Project may be found in the materials for that meeting. Construction on the Souza II Wetland Restoration Project started on August 17, 2009. Earthwork was completed on September 2, 2009, and the work was accepted by staff from the Conservancy and the East Bay Regional Park District. The planting phase of the project started on December 7, 2009 and was completed December 17, 2009.

Additionally, the Conservancy contracted with Condor Country Consulting to perform fairy shrimp presence/absence surveys as required by the HCP/NCCP. Fairy Shrimp occurrences were documented on preserve properties. Other HCP covered species were also noted while conducting these surveys.

Staff will present a slide show during the meeting of photos highlighting the Souza II Wetland Restoration project progress and the results of the recent species surveys.

CONTINUED ON ATTACHMENT: <u>No</u>	
ACTION OF BOARD ON: <u>March 17, 2010</u> APPROVED AS RECOMMENDED: _____	
OTHER: _____	
<u>VOTE OF BOARD MEMBERS</u>	
<input type="checkbox"/> UNANIMOUS	I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN. ATTESTED _____ <i>CATHERINE KUTSURIS, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i> BY: _____, DEPUTY
AYES: _____	
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Update on actions related to legislative matters

RECOMMENDATION

Consider the following actions related to legislative matters:

- a) **ACCEPT** report on briefing booklet, “California Habitat Conservation Planning Coalition, Cooperative Endangered Species Conservation Fund: Fiscal Year 2011 Funding Request”
- b) **ACCEPT** report on Conservancy correspondence and meetings with Administration and Congressional representatives as part of continued efforts to pursue the Conservancy’s 2010 Legislative Platform in conjunction with the California Habitat Conservation Planning Coalition.
- c) **AUTHORIZE** letter of support to Contra Costa County for grant application to Caltrans Community-Based Transportation Planning (CBTP) to fund for the Knightsen/Byron Area Transportation Study.

DISCUSSION

Item (a): In accordance with Item 1 of the Conservancy’s approved 2010 Federal & Legislative Platform and Conservancy Resolution No: 2009-03, Conservancy staff worked with the California Habitat Conservation Planning Coalition to prepare a briefing booklet and distribute it to Congressional representatives and administration officials during the Coalition’s March 2010 session in Washington D.C. The briefing booklet requests that funding for the U.S. Fish and Wildlife Service’s Cooperative Endangered Species Conservation Fund increase from the \$85.0 million current-year level to \$100 million in FY2011. It highlights the value of increasing funding and providing much needed support to regional Habitat Conservation Plans (HCP’s) in California and nationally. Following adoption of the Conservancy’s Platform, the Coalition determined to request \$100 million instead of \$125 million. The gloomy federal budget climate made requesting more appear to be overly aggressive. A copy of the booklet is attached.

CONTINUED ON ATTACHMENT: <u>Yes</u>	
ACTION OF BOARD ON: <u>March 17, 2010</u> APPROVED AS RECOMMENDED: _____	
OTHER: _____	
<u>VOTE OF BOARD MEMBERS</u>	
__ UNANIMOUS	
AYES: _____	I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN. ATTESTED _____ CATHERINE KUTSUIRS, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
BY: _____, DEPUTY	

Item (b): As mentioned above, in early March 2010, Conservancy staff traveled to Washington D.C. to attend meetings with Administrative and Congressional representatives as part of continued lobbying efforts of the Conservancy's 2010 Legislative Platform, particularly items 1 and 3 relating to increasing funding for the Section 6 Grants and to eliminating the prohibition on using HCP fees as match for Section 6 funds. Staff will provide additional detail during the Board discussion of this item.

In support of increasing funding for the Section 6 Grant Program, Conservancy Board Chair Connelley signed a letter to Senator Dianne Feinstein, Chair of the Subcommittee on Interior, Environment, and Related Agencies, Senate Appropriations Committee (attached). Similar letters were sent to other members of the Conservancy's Congressional delegation.

Item (c): County Costa County is seeking funding from the Caltrans Community-Based Transportation Planning Grant Program for the advancement of the Knightsen-Byron Area Transportation Study. The County has requested a letter of support from the Conservancy for the request.

The study proposes to re-evaluate the Circulation Element of the County General Plan to improve its consistency with the Urban Limit Line (ULL) and related policies that ensure preservation of non-urban, agricultural, open space and other areas identified outside the ULL. The study would also focus on growth-inducing impacts of highways and roads serving outside the Local Agency Formation Commission's (LAFCO) designated Spheres of Influence.

A potential outcome would be revisions to the Roadway Network Map and related General Plan policies for the study area. This study's findings may result in reduced impacts on natural resources from planned road expansion while still accommodating future travel demand.

Attachments:

- Briefing Book entitled: "California Habitat Conservation Planning Coalition, Cooperative Endangered Species Conservation Fund: Fiscal Year 2011 Funding Request"
- February 4, 2010 letter from Mr. Connelley to Senator Dianne Feinstein regarding increased Section 6 grant funding
- Draft Conservancy Support Letter for the Knightsen-Byron Area Transportation Study
- Knightsen-Byron Area Transportation Study Proposal

California Habitat Conservation Planning Coalition

U.S. Fish and Wildlife Service

Cooperative Endangered Species Conservation Fund: Fiscal Year 2011 Funding Request



March 2010

REQUEST

The California Habitat Conservation Planning Coalition requests that funding for the U.S. Fish and Wildlife Service's Cooperative Endangered Species Conservation Fund (the "Fund") increase from the \$85 million Fiscal Year 2010 level to \$100 million in Fiscal Year 2011. This increase would bring the program closer to the FY2001 funding level of \$125M, corrected for inflation, and help satisfy the urgent need for funding for endangered species conservation efforts, particularly conservation associated with regional Habitat Conservation Plans. The California Habitat Planning Coalition consists of local agencies, conservation organizations and business organizations supporting regional Habitat Conservation Plans.

SUPPORTED BY

Local Agencies:

California State Association of Counties
Coachella Valley Association of Governments
Coachella Valley Conservation Commission
Contra Costa County
Delta Counties Coalition
East Contra Costa County Habitat Conservancy
Placer County
Riverside County
Sacramento County
San Diego County
San Joaquin Council of Governments
Santa Clara County
Solano County Water Agency
Western Riverside County Regional Conservation Authority
Yolo County

Conservation Organizations:

California Land Conservancy
California Native Plant Society
Endangered Habitats League
Friends of the Desert Mountains
Institute for Ecological Health
The Nature Conservancy

Business/Infrastructure:

Building Industry Association of San Diego County
Building Industry Association of Southern California
Home Builders Association of Northern California
Pacific Gas and Electric Company
The Sauls Company

CALIFORNIA HCPs

Key Regional HCPs:

Yuba- Sutter HCP/NCCP
Yolo Natural Heritage Program
Western Riverside County MSHCP/NCCP
South Sacramento HCP
Solano HCP
Santa Clara Valley HCP/NCCP
San Joaquin County Multi-Species Conservation and Open Space Plan
San Diego North County Multiple Species Conservation Program NCCP
San Diego Multiple Habitat Conservation Program NCCP
San Diego County Multiple Habitat Conservation Open Space Plan NCCP
San Diego County Multiple Species Conservation Program NCCP
Placer County Conservation Plan
Natomas / Metro Air Park HCPs
East Contra Costa County HCP/NCCP
Coachella Valley MSHCP/NCCP
Butte Regional Conservation Plan (HCP/NCCP)



THE VALUE OF HCPs AND THE COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

HCPs Benefit Business and the Environment:

Regional Habitat Conservation Plans (HCPs) establish a coordinated process for permitting and mitigating the incidental take of endangered species. This process creates an alternative to the project-by-project approach. Rather than individually surveying, negotiating, and securing mitigation and permit coverage, proponents of public and private projects are covered by an umbrella regional permit. Habitat preservation, restoration and stewardship are conducted in a coordinated way by a local conservancy. Some benefits of regional HCPs are:

- Purchase, restore, and permanently protect large, interconnected and biologically rich blocks of habitat.
- Redirect money away from the process of permitting and toward the protection of resources.
- Improve regulatory certainty and permitting efficiency for local jurisdictions and the development community.
- Provide fair compensation to willing landowners for permanent protection of their land.

Federal Funds Spur Substantial State and Local Investments:

The Cooperative Endangered Species Conservation Fund (Fund) provides grants to states for land acquisition consistent with approved HCPs, for assistance with preparation of HCPs and for other projects that help endangered species to recover. Funds for HCP land acquisition are by far the largest component. In California, the funds are subsequently granted to local agencies.

Major advantages of the Fund are that it leverages federal dollars and promotes regional HCPs. Grants from the Fund typically require a substantial non-federal match. The potential for grants from the Fund provides a key incentive for state and local agencies to develop and implement HCPs for the benefit of federally protected species.



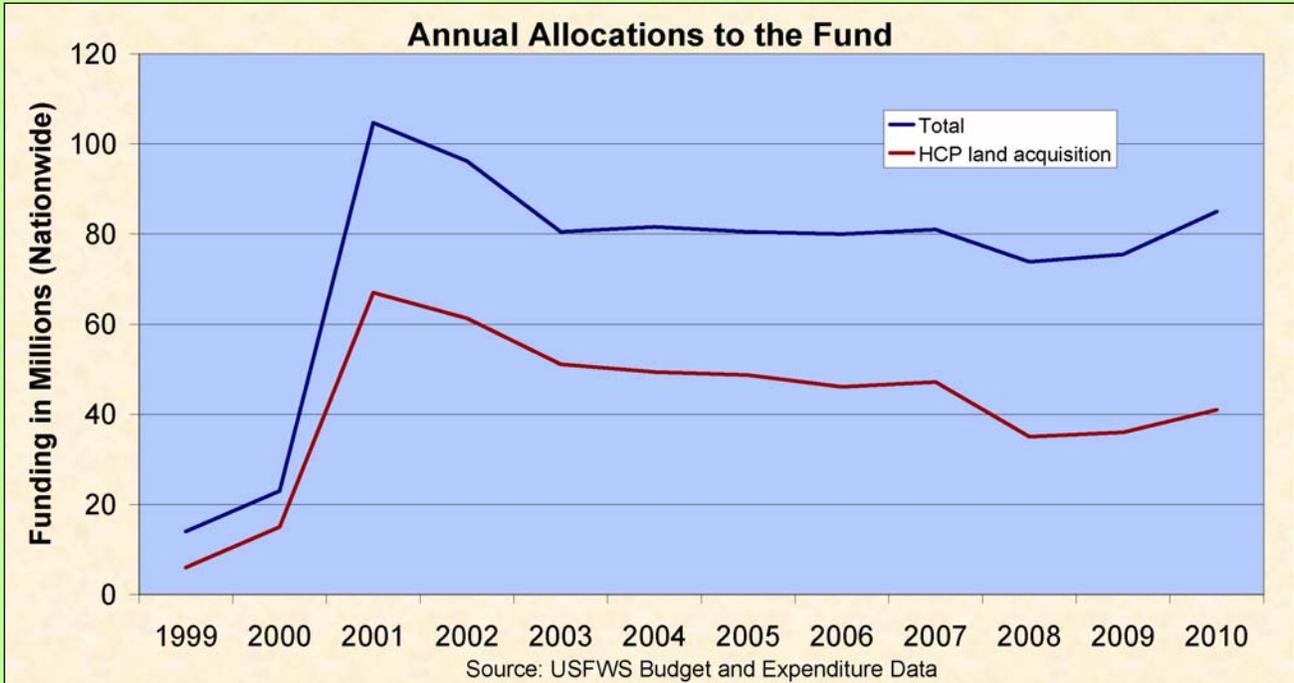
Scott Hein



WHY THE FUND ALLOCATION NEEDS TO INCREASE

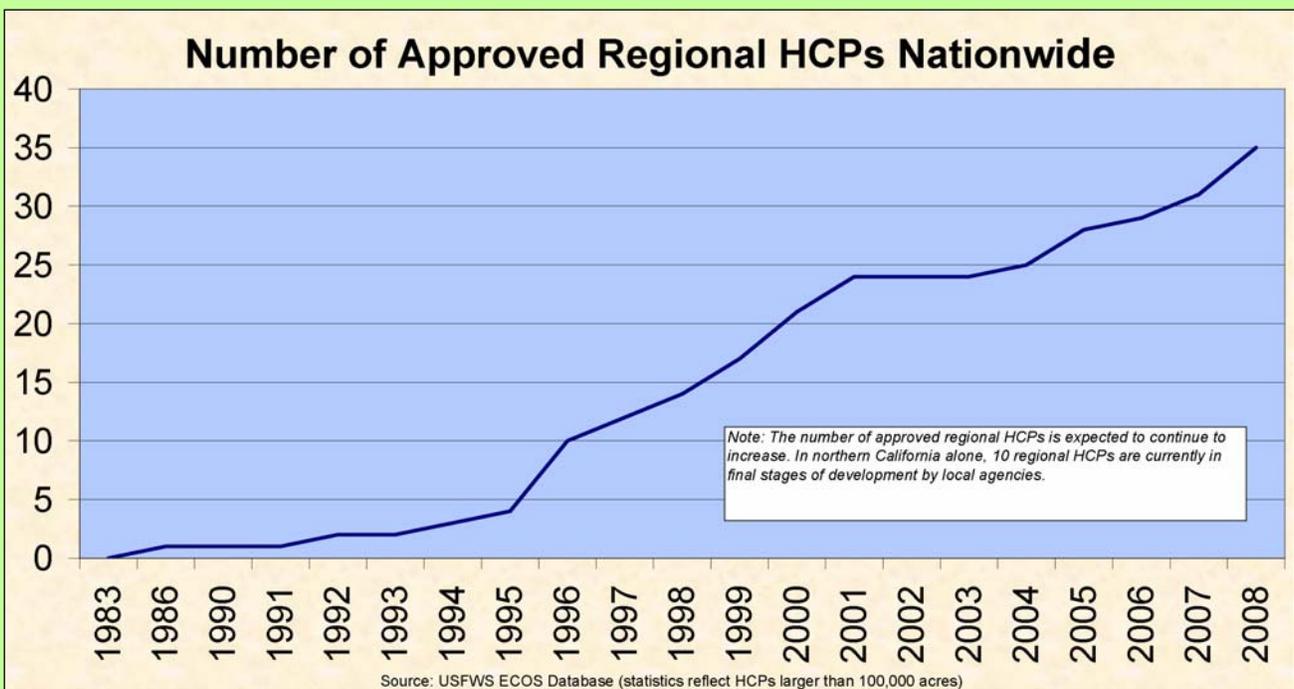
A) Funding Levels Have Declined and Stagnated

Allocations to the Cooperative Endangered Species Conservation Fund have declined & stagnated over the last decade. The Fund is currently down 20% from the FY2001 high of \$104.7 million.



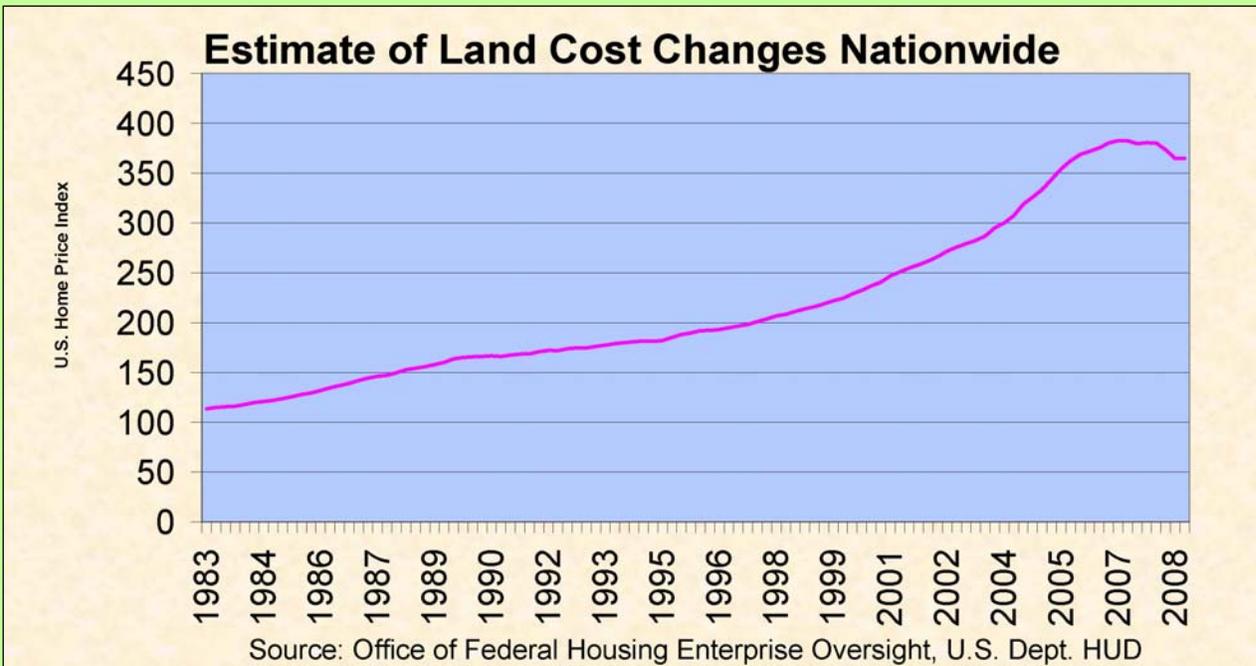
B) The number of Approved HCPs Continues to Grow

While funding has declined, the number of approved HCPs that need such funds has increased dramatically. The number of approved, large-scale HCPs in the country has grown from one in 1983 to 35 in 2008.



C) Land Conservation Costs Have Grown

While funding has declined, the costs of preparing and implementing HCPs have steadily increased. For example, land acquisition costs for many HCPs have almost doubled in the last decade.



INCREASING THE FUND TO \$100 MILLION IN FY 2011

The California Habitat Conservation Planning Coalition proposes increasing the Fund to \$100 million in FY2011 in order to bring it closer to the FY2001 funding level of \$125 million, corrected for inflation. To attempt to keep pace with the actual funding needs and the prolific growth in the number of regional HCPs, the Fund needs to increase more substantially in future years when Federal funds are less constrained. In FY 2008, grant applications from California alone eclipsed the total value of the Fund. Demand will multiply rapidly in the near future. Approximately ten regional HCPs are in the final stages of preparation in California alone.



Scott Hein

CONSERVATION BENEFITS OF CALIFORNIA HCPs

Regional HCPs in California are a primary mechanism for the conservation of land and species in some of the fastest growing areas of the state. Collectively, regional HCPs in California will conserve more than 1.4 million acres of land. Conserved land will be restored, enhanced and managed for the benefit of the widest array of species found in the United States. Conserved land will also provide valuable open space to residents and visitors, protecting the natural beauty of these regions and providing numerous recreational opportunities.

Plan Name	Covered Species	Acres To Be Conserved*
Butte Regional Conservation Plan	41	n/a
Coachella Valley MSHCP/NCCP	27	240,000
East Contra Costa County HCP/NCCP	28	30,000
Natomas / Metro Air Park HCPs	22	9,000
Placer County Conservation Plan	33	60,000
San Diego County Multiple Habitat Conservation Open Space Plan NCCP	263	158,000
San Diego MSCP - County Sub Area Plan	85	98,000
San Diego North County MSCP / NCCP	63	107,000
San Joaquin County Multi-species Conservation and Open Space Plan	97	101,000
Santa Clara Valley HCP/NCCP	30	45,000
Solano HCP	36	30,000
South Sacramento HCP	40	58,000
Western Riverside County MSHCP/NCCP	146	500,000
Yolo Natural Heritage Program	64	n/a
TOTAL		1,436,000

ECONOMIC BENEFITS OF CALIFORNIA HCPs

Regional HCPs in California provide coordinated, regional permits for public infrastructure and private development projects. These regional umbrella permits last 30 to 75 years, transfer authority to local government, and improve certainty of the permit process for project proponents. Regional HCPs in California are expected to permit projects with a cumulative value of \$1.6 trillion.



Plan Name	Regional Permits* Thru...	Est. Value of Covered Activities**
Butte Regional Conservation Plan	2041	n/a
Coachella Valley MSHCP/NCCP	2083	\$300 billion
East Contra Costa County HCP/NCCP	2037	\$12 billion
Natomas / Metro Air Park HCPs	2053	\$18 billion
Placer County Conservation Plan	2061	\$115 billion
San Diego County Multiple Habitat Conservation Open Space Plan NCCP	2061	\$228 billion
San Diego MSCP - County Sub Area Plan	2047	\$118 billion
San Diego North County MSCP / NCCP	2060	\$104 billion
San Joaquin County Multi-species Conservation and Open Space Plan	2051	\$109 billion
Santa Clara Valley	2060	\$25 billion
Solano HCP	2040	\$12 billion
South Sacramento HCP	2061	\$45 billion
Western Riverside County MSHCP/NCCP	2079	\$500 billion
Yolo Natural Heritage Program	2041	n/a
TOTAL		\$1.6 trillion

* The term of regional permits is estimated for those HCPs in preparation.

** Assumes a value of \$1 million per acre for every acre of development that may be covered under the HCP.

EXAMPLES OF CONSERVATION ACCOMPLISHMENTS

Preserving the Sand Dune Ecosystem, the Coachella Valley Multiple Species HCP/NCCP: In two separate purchases, \$5,542,000 from the Fund were matched with \$5,558,680 in state and local funds to acquire 1,560 acres adjacent to existing preserves for the Coachella Valley Fringe Toed Lizard, helping to conserve the remaining active desert dunes in the Coachella Valley. In total, more than 65,000 acres has been acquired since 1996 when the Plan was initiated. Local, state, other federal and non-profit sources contributed the vast majority of the necessary funds.



Benton 36, Western Riverside County MSHCP: Acquired 36 acres in the middle of a rapidly developing area in the southern portion of the county using \$1.3M from the Fund leveraged with \$700,000 from local sources. This key acquisition expanded the Core 2 reserve in the vicinity of the Cities of Murrieta and Temecula. The purchase provides excellent coastal sage scrub habitat while protecting populations of California Gnatcatcher and Quino Checkerspot Butterfly.



Ramona Grasslands, San Diego MSCP: Acquired 2,780 acres at the County of San Diego Ramona Grasslands Preserve utilizing \$19.9M from the Fund, leveraged with \$7M of State funding and \$3.4M County General Funds. The Ramona grasslands, west of the town of Ramona, feature habitat that has all but disappeared in the county. Its vernal pools, alkali playas, and native grasses make this an exceptional part of the natural heritage of San Diego.



Fox Ridge, East Contra Costa County HCP/NCCP : Acquired 222 acres at risk for rural residential development for \$1.76M. The Fund covered one third (\$555K) of the purchase price. Funds from a private foundation and from two local agencies covered the remainder. The acquisition protects the lower reaches of Briones Valley, a key wildlife corridor for San Joaquin kit fox. The acquisition also protects more than two miles of Briones Creek, suitable habitat for California red-legged frog.



Scott Hein



California Habitat Conservation Planning Coalition

*A coalition of local agencies, conservation organizations and business organizations supporting regional
Habitat Conservation Plans.*

Contact:

John Hopkins, CHCPC Director
Institute for Ecological Health
409 Jardin Place
Davis, California 95616
Phone: 530-756-6455
Email: ieh@cal.net



*EAST CONTRA
COSTA COUNTY
HABITAT
CONSERVANCY*

February 4, 2010

The Honorable Dianne Feinstein, Chair
Subcommittee on Interior, Environment, and Related Agencies
Senate Appropriations Committee
131 Dirksen Senate Office Building
Washington, DC 20510

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

RE: ESA Section 6 - Cooperative Endangered Species Conservation Fund

Dear Chairman Feinstein:

We are writing to express our strong support for a significantly increased funding level for the ESA Section 6 Cooperative Endangered Species Conservation Fund in the Fiscal Year 2011 Senate Interior and Related Agencies Appropriations Bill. We encourage you to increase the funding for this important national program to \$125 million. The requested increase reflects the fiscal year 2001 funding level adjusted for inflation.

We would also like to thank you for your strong support of Section 6 funding for Habitat Conservation Plan (HCP) land acquisition and for securing a \$4.5 million increase for this sub-account in the Senate's FY 2010 appropriations bill.

The Cooperative Endangered Species Conservation Fund (CESCF) has been one of the U.S. Fish and Wildlife Service's most successful grant programs. It addresses the eighty percent of habitat for federally-listed threatened and endangered species found on non-federal lands. The Fund represents a vital tool for establishing and maintaining cooperative partnerships between the federal government, states, and non-federal partners for the protection and conservation of federally-listed threatened and endangered species.

The Fund provides for sub-grants to cities and counties, conservation-organizations, and non-federal partners in the conservation and protection of threatened and endangered species. The critical resources these partners bring to bear leverage federal funds with millions of state, county, municipal, non-profit, and private dollars. In turn these multiple funding streams are directly utilized on the ground for species conservation.

The Fund includes three sub-accounts – HCP Planning Assistance Grants, HCP Land Acquisition Grants, and Recovery Land Acquisition Grants. HCPs and Recovery Plans focus acquisition efforts on lands that have the greatest potential to benefit the species most in need of conservation assistance. These funding streams are utilized either

through the development and implementation of HCPs, or to purchase land or conservation easements that are tied to the implementation of a Recovery Plan.

In addition to providing effective species and habitat conservation, regional HCPs can provide valuable streamlining benefits to job-creating development activities, including housing, transportation, infrastructure, and alternative energy investments. Most importantly, this streamlining is not accomplished through inappropriate trade-offs that sacrifice conservation of federally-listed species, but rather through responsible, science-based planning and execution that together facilitate the simultaneous achievement of multiple societal goals.

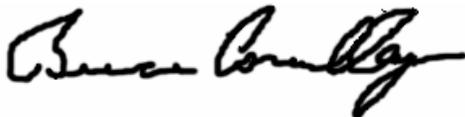
In Fiscal Year 2010, the Congress appropriated \$85 million for the CESCOF. Since Fiscal Year 2001, when the program reached its highest level of \$104.7 million, funding for the program has decreased. In sharp contrast, there is a tremendous demand both in California and across the country for threatened and endangered species grant funding. With the increased utilization of HCPs and enhanced activity in recent years to update and finalize Recovery Plans, the Fund is currently receiving requests over twice the amount made available.

As representatives of a partnership of local agencies in California that works extensively with threatened and endangered species and the development and implementation of Habitat Conservation Plans (HCP) and Recovery Plans, we believe increased funding for the CESCOF program is vitally important for the future conservation of federally-listed, candidate and at-risk species.

In recognition of the tremendous need for a continued federal investment in cooperative partnerships that facilitate efforts by non-federal partners to conserve federally-listed threatened and endangered species, we encourage you to provide \$125 million for the CESCOF program in the Fiscal Year 2011 Senate Interior and Related Agencies Appropriations Bill.

Thank you for your kind consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Connelley". The signature is fluid and cursive, written in a professional style.

Bruce Connelley, Chair
East Contra Costa County Habitat Conservancy Governing Board



**EAST CONTRA
COSTA COUNTY
HABITAT
CONSERVANCY**

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

March 17, 2010

Steven L. Goetz, Deputy Director
Department of Conservation and Development
Transportation Planning Section
651 Pine Street, 4th Floor, North wing
Martinez, CA 94553

RE: Knightsen-Byron Area Transportation Study

Dear Mr. Goetz:

On behalf of the East Contra Costa County Habitat Conservancy, we wish to express our enthusiastic support for the advancement of the Knightsen-Byron Area Transportation Study through funding from the Caltrans Community-Based Transportation Planning Grant Program.

We look forward to the County addressing the community's concerns regarding future transportation improvements and circulation for the area. East County has experienced intense growth in recent years. It is important to have policies that address future transportation demand while also enhancing and preserving the area's agricultural and natural resources, and quality of life.

We congratulate the Department of Conservation and Development, Contra Costa County, elected officials and all cooperating agencies in their current efforts to address the issues and strongly encourage the expeditious creation of the Knightsen-Byron Area Transportation Study.

Thank you very much.

Sincerely,

Bruce Connelley, Chair
Governing Board

KNIGHTSEN-BYRON AREA TRANSPORTATION STUDY PROPOSAL

The Knightsen-Byron Area Transportation Study proposes to re-evaluate the Circulation Element of the General Plan to improve its consistency with the Urban Limit Line and related policies that ensure preservation of non-urban agricultural, open space and other areas identified outside this line.

Background

In 1991, Contra Costa voters adopted an Urban Limit Line. The Urban Limit Line and related policies were incorporated into the General Plan. The Urban Limit Line policies were updated and reaffirmed by the voters in 2006. Since 1991, there have been no significant changes to the Circulation Element in the Knightsen-Byron area, which is the center of the County's agricultural-based activities.

As growth has occurred in the areas surrounding the Knightsen-Byron area, there has been increased pressure to widen and extend roads in the Knightsen-Byron area to accommodate commuter traffic. As work on these projects has commenced, the following issues have surfaced:

- The quality of life for residents in the Knightsen-Byron area may be degraded;
- Road projects that increase capacity may interfere with more important projects to improve safety;
- The planned road projects are too expensive to build;
- The planned road projects will be growth inducing; and
- The planned road projects will conflict with the area's agricultural and rural uses.

Study Objectives

The proposed study area is described in the attached map. Study objectives include:

- to promote the safety of motorists, pedestrians and bicyclists;
- to support the desired quality of life in the Knightsen-Byron area;
- to provide a circulation system appropriate to rural development to support land uses and economic activity allowed by the General Plan;

- to discourage the placement or expansion of public roadways and new utility corridors which would adversely affect the viability of the Agricultural Core if economically feasible alternatives exist;
- to reduce growth-inducing impacts of highways and roads serving areas outside LAFCO designated Sphere of Influence; and
- facilitate implementation of cost sharing agreements for road improvements between County and cities.

Stakeholders affected by the proposed study include:

- County of Contra Costa
- Byron Municipal Advisory Council
- Knightsen Town Advisory Council
- Discovery Bay Community Services District
- Cities of Oakley and Brentwood
- Caltrans
- State Route 4 Bypass Authority
- Contra Costa Transportation Authority
- East Contra Costa Regional Fee and Financing Authority

Potential Outcomes

No revenue is currently available to fund the study. It is important to identify incremental outcomes that can be achieved as funding becomes available. Potential outcomes include:

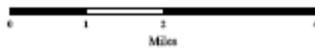
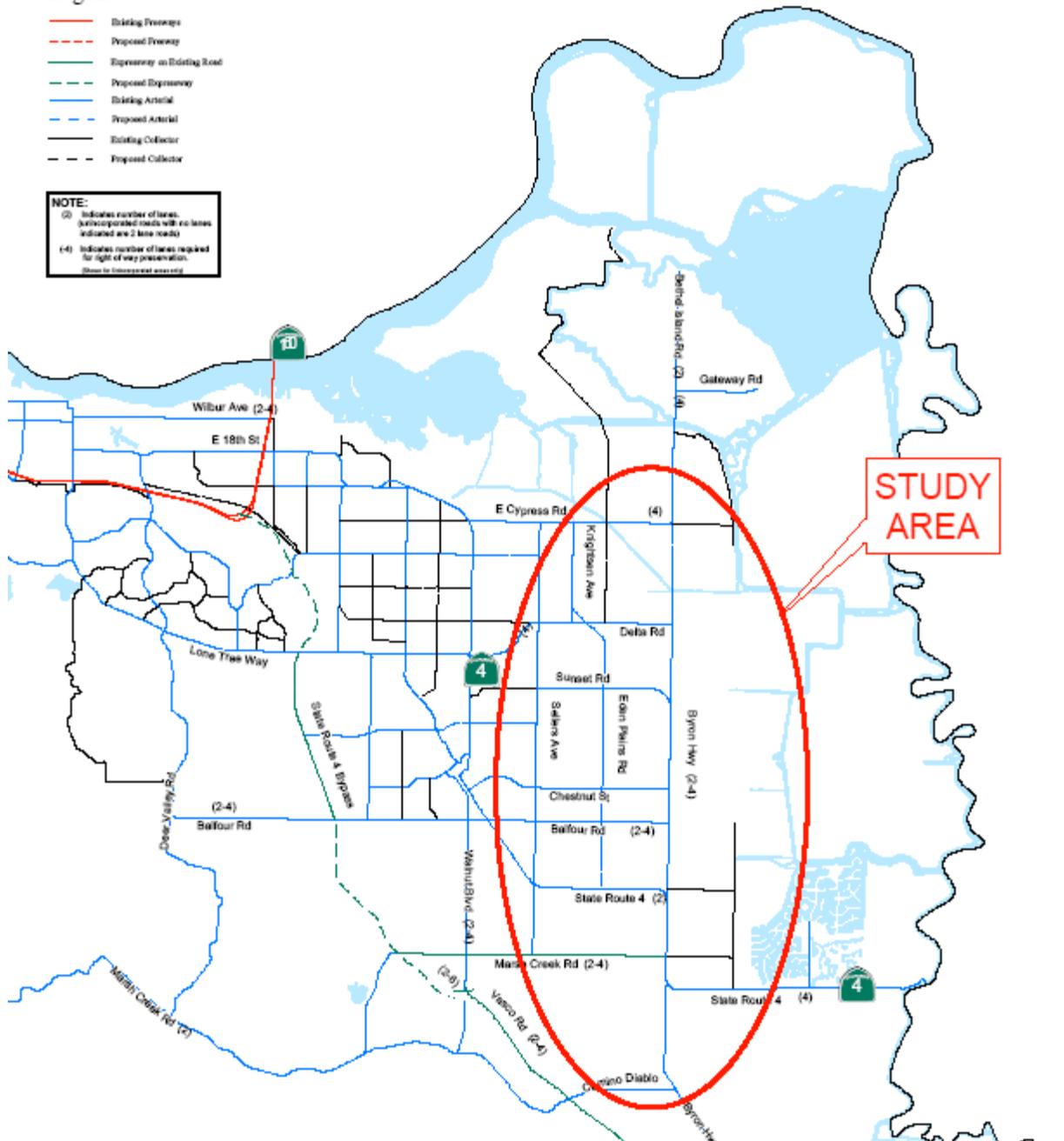
- Revisions to the Roadway Network Map and related General Plan policies for the study area, which include portions of the Agricultural Core and neighboring lands outside the ULL.
- Revisions to the East County Area of Benefit Program to support the GPA.
- Precise alignments and ultimate cross sections for future roadway expansion in the study area, consistent with the revised Roadway Network Map and related General Plan policies.
- Design guidelines for frontage improvements along public roadways and related revisions to the County zoning and subdivision ordinances.

County Roadway Network Plan - Knightsen/Byron Area

Legend

- Existing Freeway
- - - Proposed Freeway
- Expressway on Existing Road
- - - Proposed Expressway
- Existing Arterial
- - - Proposed Arterial
- Existing Collector
- - - Proposed Collector

NOTE:
 (2) Indicates number of lanes, jurisdictional roads with no lanes indicated are 2 lane roads
 (4) Indicates number of lanes required for right of way preservation
 (See the International symbol)



CONTRA COSTA COUNTY

Map Created on May 11, 2011
 Contra Costa County Geographer: Dan Robinson
 401 Pine Street, 4th Floor, St. Mary, Redwood City, CA 94063-1491
 212-642-4700 / 212-642-3130



Scope of Work

The table below provides more detail on the scope of the Knightsen Area Transportation Study. Specific tasks are identified to encourage community discussion of the proposed study. This detail is provided to help develop an understanding of this effort. All this information is in draft form and is subject to change as this proposal is reviewed and comments are received.

Knightsen Area Transportation Study Scope of Work

Tasks	Deliverable	Cost ¹
1. Background Report	Summary of issues from stakeholder interviews and reconnaissance of study area	
2. Community Outreach Strategy	Identify strategies and timeline for ensuring significant community participation.	
3. Workshop on needs and potential solutions	Report on findings from the workshop.	
4. Feasibility Study	Draft traffic study evaluating impacts of proposed changes to the circulation element and impacts of proposed road design strategies, pedestrian/trail facilities, identification of right-of-way constraints and responsible parties, preliminary cost estimates.	
5. Alternative circulation element changes and road cross-sections	Report on traffic study and description of alternative concepts for review at a community workshop.	
6. Workshop on alternative concepts.	Report on findings from the workshop.	
7. Presentation of preferred alternative to implementing agencies	Attend up to six meetings to present final study and preferred alternative (MAC, Planning Commission, cities, BOS)	
8. Project description and Initial Study.	Description of the General Plan Amendment and related actions, and Initial Study	
9. Precise alignments	Precise alignments for the road improvements in the study area.	
10. Design Guidelines	Design guidelines to incorporate into County zoning ordinance and subdivision ordinance.	
11. Area of Benefit Revision	Updated nexus study, project list and fee schedule.	
Total Cost		

¹ Study costs have not been determined at this time.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Update on 2010 Mitigation Fee Adjustments

RECOMMENDATION

ACCEPT report on 2010 Adjustment of Mitigation Fees.

DISCUSSION

The East Contra Costa County HCP/NCCP and the HCP/NCCP Implementing Ordinances adopted by the participating cities and the County provide for the automatic adjustment of HCP/NCCP Mitigation Fees each year on March 15 pursuant to specified economic indices. Conservancy staff is charged with calculating the annual fee adjustments and informing the cities and the County of the adjusted fees. The fee adjustments for 2010 are summarized in the attached table. These fees take effect on March 15, 2010 and remain in affect through March 14, 2011. Local agencies will be notified of the fee adjustments and the website will be updated with the new fee schedule.

As shown in the attached table, the HCP/NCCP Development Fees decreased 1.61% from the 2009 fees. The Wetland Mitigation Fees increased by 2.61%. Development Fees are adjusted according to a formula that includes both a Home Price Index (HPI) and a Consumer Price Index (CPI). The Wetland Mitigation Fees are adjusted according to a CPI. For 2009, the change in the HPI was -5.41% and the change in the CPI was 2.61%. Table 9-7 of the HCP/NCCP provides more information on the indices and the adjustment formulas.

Attachments

- **2010 Annual Adjustment of Mitigation Fees**

CONTINUED ON ATTACHMENT: <u>Yes</u> ACTION OF BOARD ON: <u>March 17, 2010</u> OTHER _____	APPROVED AS RECOMMENDED _____
<p><u>VOTE OF BOARD MEMBERS</u></p> <p>___ UNANIMOUS</p> <p>AYES: _____</p> <p>NOES: _____</p> <p>ABSENT: _____</p> <p>ABSTAIN: _____</p>	
<p style="font-size: small;">I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.</p> <p>ATTESTED _____ <i>Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i></p> <p>BY: _____, DEPUTY</p>	

**Annual Adjustment of East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan ("HCP/NCCP")
Mitigation Fees**

FEE TYPE	YEAR ¹					
	2006	2007	2008	2009	2010	
	Fee	Fee	Fee	Fee	Fee	% Change ²
Development Fees (per acre)						
Zone I	\$11,919.00	\$12,456.88	\$12,077.65	\$10,731.11	\$10,558.09	-1.61%
Zone II	\$23,838.00	\$24,913.77	\$24,155.30	\$21,462.21	\$21,116.18	-1.61%
Zone III	\$5,960.00	\$6,228.96	\$6,039.33	\$5,366.00	\$5,279.49	-1.61%
Wetland Mitigation Fees (per acre, except as noted)						
Riparian woodland/scrub	\$58,140.00	\$60,004.38	\$61,968.58	\$61,980.77	\$63,600.58	2.61%
Perennial wetlands	\$79,560.00	\$82,111.26	\$84,799.11	\$84,815.80	\$87,032.37	2.61%
Seasonal Wetland	\$172,380.00	\$177,907.73	\$183,731.40	\$183,767.56	\$188,570.13	2.61%
Alkali wetland	\$163,200.00	\$168,433.35	\$173,946.89	\$173,981.12	\$178,527.93	2.61%
Ponds	\$86,700.00	\$89,480.22	\$92,409.28	\$92,427.47	\$94,842.96	2.61%
Aquatic (open water)	\$43,860.00	\$45,266.46	\$46,748.23	\$46,757.43	\$47,979.38	2.61%
Slough/ Channel	\$98,940.00	\$102,112.72	\$105,455.30	\$105,476.05	\$108,232.56	2.61%
Streams 25 feet wide or less - fee per linear foot	\$474.00	\$489.20	\$505.21	\$505.31	\$518.52	2.61%
Streams greater than 25 feet wide - fee per linear foot	\$714.00	\$736.90	\$761.02	\$761.17	\$781.06	2.61%

Notes:

1) Fee amounts indicated for each calendar year are valid from March 15 of that year until March 14 of the subsequent calendar year. 2010 fees are valid from March 15, 2010 until March 14, 2011.

2) Percent change from prior year. Please note, Development Fees are adjusted according to a formula that includes both a Home Price Index (HPI) and a Consumer Price Index (CPI). The Wetland Mitigation Fees are adjusted according to a CPI. For 2009, the change in the HPI was -5.41% and the change in the CPI was 2.61%. See Table 9-7 of the HCP/NCCP for more information.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Minor correction to “Protocol for Covering Communication Towers under the HCP/NCCP”

RECOMMENDATION

APPROVE minor correction to the “Protocol for Covering Communication Towers Under the HCP/NCCP” previously approved by the Governing Board on December 17, 2008.

DISCUSSION

On December 17, 2008, the Board approved a Protocol for Communication Tower Impact and Fee Calculations. The protocol sets forth the procedures to be used for assessing impacts and calculating fees on communications towers. Staff proposes minor corrections to the Protocol to clarify ambiguous language. The correction is intended to clarify how the overlapping buffered area discount shall be applied.

Please see the Protocol with proposed minor correction’s below.

PROTOCOL:

Below is the “Protocol for Communication Tower Impact and Fee Calculations.”

- a. Full development fee will be charged for the base area of each permanent structure (including permanently disturbed areas around the base such as permanently disturbed paved or fenced areas and areas covered with gravel) plus a 100-ft buffer around each base area.
- b. Temporary impact fee will be charged for the area of each trench plus a 25-ft buffer on either side of the trench.

<p>CONTINUED ON ATTACHMENT: <u>Yes</u> ACTION OF BOARD ON: <u>March 17, 2010</u> OTHER _____</p>	<p>APPROVED AS RECOMMENDED _____</p>
<p><u>VOTE OF BOARD MEMBERS</u></p> <p><u> </u> UNANIMOUS</p> <p>AYES: _____</p> <p>NOES: _____</p> <p>ABSENT: _____</p> <p>ABSTAIN: _____</p>	
<p>I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.</p> <p>ATTESTED _____ <i>Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i></p> <p>BY: _____, DEPUTY</p>	

- c. Full development fee will be charged for the area of any new paved, all-purpose or gravel road plus a buffer on either side of the new road (50 ft for paved or all-purpose and 35 ft for gravel).
- d. Reduction of buffer to 25 ft on either side of the new road if road is designed to minimize impacts (i.e., a dirt road that does not provide a dark surface and/or hard surface that will attract snakes as a basking site).
- e. No permanent or temporary impact fee will be charged for use of an existing road despite a small increase in traffic. Construction of new road would remove natural land cover and, depending on the location, require extensive grading and/or create significant new edge effects. Use of existing roads is judged to be less significant than construction of new road and is therefore exempted.
- f. When a 100 foot buffer area around an existing structure overlaps with a buffer area of a proposed structure, overlapping buffered areas will be discounted by 50%. The actual footprint of the new structure will not be discounted.
~~Overlapping buffered areas will be discounted by 50%.~~
- g. If a permanent impact buffer overlaps with a temporary impact buffer, the permanent impact fee will apply to area of the buffer.
- g.h. Temporary impact fees (1-2 years) will be charged for each replacement structure plus a 100-ft buffer around each structure. No credit will be given for overlapping buffered areas.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Agreement with Bay Area Rapid Transit District to Extend Take Coverage

RECOMMENDATION

AUTHORIZE staff to execute a Participating Special Entity Agreement with the Bay Area Rapid Transit District (BART) to extend take coverage for the eBART Phase I project.

DISCUSSION

As part of the eBART Phase I Project (project), BART will start construction of transit facilities in the median of State Route 4 starting at BART's Pittsburg/Bay Point Station and extending approximately 3.7 miles in length to approximately one-third of a mile west of the Loveridge Road overcrossing exchange. These facilities are entirely within urban land cover and are exempt from all HCP avoidance and mitigation measures. However, ancillary components of the project are not exempt from HCP measures. BART will construct an ancillary building within the Caltrans right-of-way located on Canal Road, approximately 0.2 miles east of the intersection of Madison Avenue and Canal Road in the City of Pittsburg. BART is also proposing two staging areas in the City of Pittsburg, one along Bailey Road and the second at Bliss Avenue. See Figure 1 and the Project Description in the Application and Planning Survey Report for more information on the Project and its location.

The proposed project is within habitat suitable for several species covered by the HCP/NCCP. BART has requested take authorization for this project pursuant to the HCP/NCCP from the Conservancy as a Participating Special Entity (PSE). Chapter 8.4 of the East Contra Costa County Habitat Conservation / Natural Community Conservation Plan (HCP/NCCP) provides that entities with projects not subject to the land use authority of one of the land use agencies participating in the HCP/NCCP may apply to the Conservancy for take coverage. BART is a special-purpose transit district that was formed in 1957 to cover San Francisco, Alameda County, and Contra Costa County. It is not subject to the land use authority of any local agency. Therefore, in order to receive permit coverage under the HCP/NCCP, the Conservancy and BART must enter into an agreement obligating compliance with the applicable terms and conditions of the Implementing Agreement, the HCP/NCCP, and the state and federal permits. The agreement must describe and bind BART to perform all avoidance, minimization, and mitigation measures applicable to the project.

Conservancy staff has worked with BART to prepare a draft PSE Agreement for this Project (attached). Attached as Exhibit 1 to the Agreement is the completed Application and Planning

Survey Report for the project (Report), which was primarily prepared by BART. The Report documents the results of the planning-level surveys conducted at the locations where permanent and temporary impacts will occur and describes the specific pre-construction surveys, avoidance, and mitigation measures that are required in order for the project to be covered. The Report contains project vicinity maps, detailed maps showing land cover and activities at impact locations, and the Fee Calculator Worksheets. These items are included in the printed packet. The Report also includes technical appendices, such as site plans and results of botanical surveys. The full application packet which includes the appendices are available on CD-ROM.

Key provisions of the Agreement:

- The Project impacts are reflected in the table below:

Land Cover Type	Location	Impact Type	
		Permanent	Temporary
Ruderal	Canal Road Site	0.3	
Ruderal	Bailey Road Site		3.5
Urban (No Fees)	Bliss Ave/Harbor Ave Site		2.4

- The agreement provides that BART will reimburse the Conservancy for staff costs associated with processing BART’s request for take coverage, up to a maximum reimbursement of \$5,000.
- As set forth in the Agreement (page 6), BART will pay the Conservancy \$13,950.43 which amount includes all HCP/NCCP mitigation fees necessary for the Project as well as a contribution to recovery of endangered species. The overall payment amount includes the following components:

eBART PHASE I FEE SUMMARY	
Development fees:	\$3,219.33
Temporary impact fees:	\$7,511.77
Contribution to recovery of endangered species:	\$3,219.33
TOTAL FEES	\$13,950.43
Maximum Administrative Costs	\$5,000.00
MAXIMUM AMOUNT TO BE PAID	\$18,950.43

- Staff proposes a contribution to recovery of \$3,219.33. As set forth in the HCP, the Conservancy may charge PSEs a contribution to recovery to help the Conservancy cover certain costs associated with the HCP that are not included in HCP mitigation fees (for example, the costs of preserve management beyond the permit term, the costs of exceeding mitigation requirements and contributing to recovery of covered species, etc.). For the PG&E CCLP project, PG&E agreed to pay a \$50,000 contribution to recovery. All impacts in the PG&E project were temporary impacts and did not count against Conservancy take limits. Given the smaller scale, smaller fee and partial

permanent impacts associated with the EBART project, staff proposes charging a contribution to recovery of \$3,219.33, an amount equal to fees required for permanent impacts.

- Fees must be paid before work commences. BART anticipates starting work in August of 2010. HCP/NCCP fee amounts went down slightly on March 15, 2010, but BART has agreed not to request a fee adjustment in 2010.
- The Agreement requires a number of detailed measures to avoid impacts to covered species, including pre-construction surveys for Western burrowing owl and Swainson's hawk.

Next steps: If the Conservancy Board authorizes staff to sign the PSE Agreement, key next steps in granting take coverage would be as follows:

- Wildlife agencies review the agreement and are asked to concur with the Conservancy's determination that the agreement imposes all applicable conditions of the HCP/NCCP onto the project. Note: Participating Special Entity agreements, unlike the granting of take authorization by a participating City or the County, requires wildlife agency concurrence.
- BART pays all required fees.
- The Conservancy issues BART a Certificate of Inclusion. Take coverage would then be in effect, subject to the terms of the PSE Agreement.
- BART conducts pre-construction surveys to determine which species-specific avoidance and minimization measures apply.
- Before implementing covered activity, BART will develop and submit a construction monitoring plan to the Conservancy.
- BART constructs the project subject to the terms of the PSE Agreement.

Attachments:

- PSE Agreement, including:
 - Main body of agreement
 - Exhibit 1: Planning Survey Report
 - Main body of planning survey report
 - Project Vicinity Map, Site Plan, Land Cover Maps
 - Fee Calculator (Exhibit 1 and 2 within planning survey report)
 - Note: Appendices to the application are available on CD-ROM

**AGREEMENT IMPLEMENTING THE EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY
CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION**

BETWEEN

**EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, Implementing
Entity, and BAY AREA RAPID TRANSIT DISTRICT, a Participating Special
Entity**

1.0 PARTIES

This Agreement is made and entered into by the **East Contra Costa County Habitat Conservancy** (“Conservancy”) and **Bay Area Rapid Transit District** (“Participating Special Entity” or “PSE”) as of the Effective Date.

2.0 RECITALS

The Parties have entered into this Agreement in consideration of the following facts:

- 2.1** The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP,” or “Plan”) is intended to provide a comprehensive framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for certain projects that would cause impacts on endangered and threatened species. The primary policy priority of the Plan is to provide comprehensive species, wetlands, and ecosystem conservation and contribute to recovery of endangered and threatened species within East Contra Costa County while balancing open space, habitat, agriculture, and urban development. To that end, the Plan describes how to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on Covered Species and their habitats while allowing for certain development and other activities in selected regions of the County and the Cities of Pittsburg, Clayton, Oakley, and Brentwood.
- 2.2** The Conservancy is a joint powers authority formed by its members, the County of Contra Costa (“County”), the City of Pittsburg (“Pittsburg”), the City of Clayton (“Clayton”), the City of Oakley (“Oakley”) and the City of Brentwood (“Brentwood”), to implement the HCP/NCCP.
- 2.3** The HCP/NCCP covers approximately one-third of the County, or 174,082 acres, all in East Contra Costa County, in which impacts from certain development and other activities are evaluated, and in which conservation will occur.
- 2.4** The area covered by the HCP/NCCP has been determined to provide, or potentially provide, habitat for twenty-eight (28) species that are listed as endangered or threatened, that could in the future be listed as endangered

or threatened, or that have some other special status under federal or state laws.

- 2.5 The Conservancy has received authorization from the United States Fish and Wildlife Service (“USFWS”) under incidental take permit TE 160958-0, and the California Department of Fish and Game (“CDFG”), under incidental take permit 2835-2007-01-03, for the Take of the twenty-eight (28) special-status species and certain other species, as take is defined respectively under federal and state law, while carrying out certain development and other activities.
- 2.6 The Conservancy may enter into agreements with participating special entities that allow certain activities of theirs to be covered by the Federal Permit and the State Permit, subject to the conditions in the Implementing Agreement (“IA”), the HCP/NCCP and the Permits.
- 2.7 PSE is responsible for the eBART Phase 1 Project to construct transit facilities in the median of State Route 4 from the Pittsburg/Bay Point Station to the Loveridge Road overcrossing exchange and seeks extension of the Conservancy’s permit coverage for construction of an ancillary building and the temporary use of two staging areas.
- 2.8 The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference

3.0 DEFINITIONS

The following terms as used in this Agreement will have the meanings set forth below. Terms specifically defined in FESA, CESA or NCCPA or the regulations adopted by USFWS and DFG under those statutes shall have the same meaning when used in this Agreement. Definitions used in this Agreement may elaborate on, but are not intended to conflict with, such statutory or regulatory definitions.

- 3.1 **“Agreement”** means this Agreement, which incorporates the IA, the HCP/NCCP, the Permits, and the Application by reference.
- 3.2 **“Application”** means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.
- 3.3 **“Authorized Take”** means the extent of incidental Take of Covered Species authorized by the USFWS in the Federal Permit issued to the Conservancy pursuant to Section 10(a)(1)(B) of FESA, and the extent of Take of Covered Species authorized by CDFG in the State Permit issued to the Conservancy pursuant to California Fish and Game Code section 2835.

- 3.4 “**CDFG**” means the California Department of Fish and Game, a department of the California Resources Agency.
- 3.5 “**CESA**” means the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.6 “**Changed Circumstances**” means changes in circumstances affecting a Covered Species or the geographic area covered by the HCP/NCCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the HCP/NCCP. Changed Circumstances and planned responses to Changed Circumstances are more particularly defined in Section 12.2 of the IA and Chapter 10.2.1 of the HCP/NCCP. Changed Circumstances do not include Unforeseen Circumstances.
- 3.7 “**Covered Activities**” means those land uses and conservation and other activities described in Chapter 2.3 of the HCP/NCCP to be carried out by the Conservancy or its agents that may result in Authorized Take of Covered Species during the term of the HCP/NCCP, and that are otherwise lawful.
- 3.8 “**Covered Species**” means the species, listed and non-listed, whose conservation and management are provided for by the HCP/NCCP and for which limited Take is authorized by the Wildlife Agencies pursuant to the Permits. The Take of Fully Protected Species is not allowed. The Take of extremely rare plants that are Covered Species is allowed only as described in Section 6.3 and the IA.
- 3.9 “**Effective Date**” means the date when this Agreement is fully executed.
- 3.10 “**Federal Listed Species**” means the Covered Species which are listed as threatened or endangered species under FESA as of the Effective Date, and the Covered Species which are listed as threatened or endangered pursuant to FESA during the term of the HCP/NCCP as of the date of such listing.
- 3.11 “**Federal Permit**” means the federal incidental Take permit issued by USFWS to the Conservancy and other local agencies pursuant to Section 10(a)(1)(B) of FESA (permit number TE 160958-0), as it may be amended from time to time.
- 3.12 “**FESA**” means the Federal Endangered Species Act of 1973, as amended (16 U.S.C § 1531 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.13 “**Fully Protected Species**” means any species identified in California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.
- 3.14 “**HCP/NCCP**” or “**Plan**” means the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.
- 3.15 “**Implementing Agreement**” or “**IA**” means that document attached as Appendix B to the HCP/PCCP.
- 3.16 “**Jurisdictional Wetlands and Waters**” means State and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under

section 404 of the Clean Water Act or, from the State Water Resources Control Boards under either section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFG under section 1602 of the Fish and Game Code, as further explained in Chapter 1.3.5 of the HCP/NCCP.

- 3.17 **“Listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is listed as endangered or threatened under FESA or CESA.
- 3.18 **“Non-listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under FESA or CESA.
- 3.19 **“Party”** or **“Parties”** means any or all of the signatories to this Agreement.
- 3.20 **“Permit Area”** means the area within the Plan Area where the Conservancy has received authorization from the Wildlife Agencies for the Authorized Take of Covered Species while carrying out Covered Activities.
- 3.21 **“Permits”** means the Federal Permit and the State Permit.
- 3.22 **“Plan Area”** means the geographic area analyzed in the HCP/NCCP, located in the eastern portion of Contra Costa County, as depicted in Figure 1-1 of the HCP/NCCP. The Plan Area is further described in detail in Chapter 1.2.1 of the HCP/NCCP. The Plan Area is also referred to as the “Inventory Area” in the HCP/NCCP.
- 3.23 **“Preserve System”** means the land acquired and dedicated in perpetuity through either a fee interest or conservation easement intended to meet the preservation, conservation, enhancement and restoration objectives of the HCP/NCCP.
- 3.24 **“Proposed Activities”** means the activities described in Exhibit 1 that will be covered by the extension of the Conservancy’s take authorization.
- 3.25 **“State Permit”** means the state Take permit issued to the Conservancy and other local agencies pursuant to Section 2835 of the California Fish and Game Code (permit number 2835-2007-01-03), as it may be amended from time to time.
- 3.26 **“Take”** has the same meaning provided by FESA and its implementing regulations with regard to activities subject to FESA, and also has the same meaning provided in the California Fish and Game Code with regard to activities subject to CESA and NCCPA.
- 3.27 **“Unforeseen Circumstances”** under the Federal Permit means changes in circumstances affecting a Covered Species or geographic area covered by the HCP/NCCP that could not reasonably have been anticipated by the Plan developers and USFWS at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species. **“Unforeseen Circumstances”** under the State Permit means changes affecting one or more species, habitat, natural community, or the geographic area covered by the Plan that could not reasonably have been anticipated at the time of Plan development, and that

result in a substantial adverse change in the status of one or more Covered Species.

3.28 “USFWS” means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.

3.29 “Wildlife Agencies” means USFWS and CDFG.

4.0 **PURPOSES**

This Agreement defines the Parties’ roles and responsibilities and provides a common understanding of actions that will be undertaken to avoid, minimize and mitigate the effects on the Covered Species caused by the Proposed Activities, and to provide for the conservation of the Covered Species within the Plan Area. The purposes of this Agreement are to ensure implementation of each of the terms and conditions of this Agreement, and the relevant terms of the IA, the HCP/NCCP, and the Permits, and to describe remedies and recourse should either Party fail to perform its obligations as set forth in this Agreement.

5.0 **AVOIDANCE, MINIMIZATION AND MITIGATION OF IMPACTS**

5.1 **General Framework**

As required by FESA and NCCPA, the HCP/NCCP includes measures to avoid and minimize take of Covered Species and to conserve natural communities and Covered Species at the landscape-, habitat- and species-level. Chapter 6 of the HCP/NCCP provides further instructions to determine which avoidance and minimization measures are applicable to particular Covered Activities. PSE shall implement all applicable avoidance and minimization measures as required by the HCP/NCCP, including but not limited to those identified in Chapter 6, as described in the Application and this Agreement.

5.2 **Surveys and Avoidance Measures**

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report is contained within the Application, which describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Proposed Activities and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

5.3 No Take of Extremely Rare Plants or Fully Protected Species

Nothing in this Agreement, the HCP/NCCP or the Permits shall be construed to allow the Take of extremely rare plant species listed in Table 6-5 of the HCP/NCCP (“No-Take Plant Population”) or any Fully Protected Species under California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515. PSE shall avoid Take of these species.

5.3.1 Golden Eagle

The Permits do not authorize Take of the golden eagle and PSE shall avoid Take of any golden eagle. The avoidance measures set forth in the HCP/PCCP, including but not limited to Conservation Measure 1.11, should be adequate to prevent Take of golden eagles, but the Conservancy shall notify PSE in writing of any additional or different conservation measures that are designed to avoid Take of these species and that apply to PSE. PSE shall implement all such avoidance measures to avoid Take of golden eagles.

5.4 Fees and Dedications

As set forth in the Application, PSE agrees to pay the Conservancy **\$13,950.43** which amount includes all HCP/NCCP mitigation fees necessary for the Proposed Activities as well as a contribution to recovery of endangered species. The overall payment amount is based on a summation of individual HCP/NCCP mitigation fees and a contribution to recovery as follows:

Development fees: **\$3,219.33**

Wetland mitigation fees: N/A

Temporary impact fees: **\$7511.77**

Contribution to recovery of endangered species: **\$3,219.33**

All fees and the contribution to recovery must be paid in full before any ground-disturbance associated with the Proposed Activities occurs. If any fee or the contribution toward recovery is not paid in full during the current calendar year (2010), the amount of all fees and the contribution to recovery will be increased or decreased each following year, beginning in 2011, until such time as all fees and the contribution to recovery are paid in full. All fees and the contribution to recovery will be increased or decreased according to the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. The contribution to recovery will be adjusted according to the formula set forth in Chapter 9.3.1 for the wetland mitigation fee. Fee and contribution to recovery amounts will be adjusted annually on March 15, beginning in 2011. If PSE pays all fees and the contribution to recovery during the period from January 1 to March 14 in the year 2011, all fee and contribution to recovery amounts will be subject to the March 15 fee adjustments unless construction of the Proposed Activities has commenced by March 14. If payment is made during this period and construction does not commence before March 15, PSE will be required to submit an additional payment for any increases to fees or the contribution to recovery and will be entitled to a refund without interest for any decreases to fees or the contribution to recovery.

6.0 TAKE AUTHORIZATION

6.1 Extension of Take Authorization to PSE

As provided in Chapter 8.4 of the HCP/NCCP, after execution of this Agreement, payment of fees or dedication of land as set forth in Section 5.6, and receipt of the Wildlife Agencies' written concurrence that the Proposed Activity complies with the HCP/NCCP, the Permits and the IA, the Conservancy shall issue a Certificate of Inclusion to PSE that specifically describes the Authorized Take and required conservation measures and extends Take authorization under the Permits to PSE. PSE is ultimately responsible for compliance with all applicable terms and conditions of this Agreement, the IA, the HCP/NCCP and the Permits.

6.2 Duration of Take Authorization

Once the Take authorization has been extended to the Proposed Activities, it shall remain in effect for a period of 15 years, unless and until the Permits are revoked by USFWS or CDFG, in which case the Take authorization may also be suspended or terminated.

7.0 RIGHTS AND OBLIGATIONS OF PSE

7.1 Rights

Upon the Conservancy's issuance of a Certificate of Inclusion to PSE, PSE may Take the Covered Species while carrying out the Proposed Activities in the Permit Area, as further authorized by and subject to the conditions of this Agreement, the IA, the HCP/NCCP, and the Permits. The authority issued to PSE applies to all of the elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors, and their officers, directors, employees and agents who engage in any Proposed Activity. PSE shall periodically conduct an educational program to fully inform all such persons and entities of the terms and conditions of the Permits, and PSE shall be responsible for supervising their compliance with those terms and conditions. All contracts between PSE and such persons and entities shall require their compliance with the Permits.

7.2 General Obligations

The PSE will fully and faithfully perform all obligations assigned to it under this Agreement, the IA, the HCP/NCCP, the Permits, including but not limited to the obligations assigned in the following chapters of the HCP/NCCP: Chapter 6.0 (Conditions on Covered Activities), Chapter 8.4 (Participating Special Entities), and Chapter 9.0 (Funding). PSE shall ensure that all mitigation, conservation, monitoring, reporting and adaptive management measures required of it are adequately funded throughout the term of this Agreement, and that monitoring, reporting and adaptive management measures are adequately funded in perpetuity as further described in the

Application. PSE will promptly notify the Conservancy of any material change in its financial ability to fulfill its obligations under this Agreement.

7.3 Obligations In The Event of Suspension or Revocation

In the event that USFWS and/or CDFG suspend or revoke the Permits pursuant to Sections 19.0 and 21.0 of the IA, PSE will remain obligated to fulfill its mitigation, enforcement, management, and monitoring obligations, and its other HCP/NCCP obligations, in accordance with this Agreement and applicable statutory and regulatory requirements for all Proposed Activities implemented prior to the suspension or revocation.

7.4 Interim Obligations upon a Finding of Unforeseen Circumstances

If the Wildlife Agencies make a finding of Unforeseen Circumstances with regard to a Federal Listed Covered Species, during the period necessary to determine the nature and location of additional or modified mitigation, PSE will avoid contributing to an appreciable reduction in the likelihood of the survival and recovery of the affected species. As described below at Section 15.2.2 and Section 15.3.2, the Wildlife Agencies shall be responsible for implementing such additional measures or modifications, unless PSE consents to do so.

7.5 Obligations In The Event Of Changed Circumstances

Changed Circumstances, as described in 50 Code of Federal Regulations section 17.22(b)(5)(i), are adequately addressed in Chapter 7 and Chapter 10 of the HCP/NCCP, and PSE shall implement any measures for such circumstances as called for in the HCP/NCCP, as described in Section 12.2 of this Agreement.

7.6 Obligation to Compensate Conservancy for Expenses Incurred

PSE shall compensate the Conservancy for its direct costs associated with this Agreement, including but not limited to, staff, consultant and legal costs incurred as a result of the review of the Application, drafting and negotiating this Agreement, monitoring and enforcement of this Agreement, and meetings and communications with PSE (collectively, Conservancy's "Administrative Costs"). Conservancy's Administrative Costs shall not exceed \$5,000. Conservancy shall provide PSE with invoices detailing its Administrative Costs monthly or quarterly, at Conservancy's discretion. PSE shall remit payment of each invoice within thirty (30) days of receiving it.

8.0 REMEDIES AND ENFORCEMENT

If PSE fails to comply with the terms of this Agreement, the IA, the HCP/NCCP, or the Permits, the Conservancy may withdraw the Certificate of Inclusion and terminate any

Take authorization extended to PSE. The Conservancy shall also have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the IA, the HCP/NCCP and the Permits, and to seek redress and compensation for any breach or violation thereof. PSE shall defend, indemnify, protect, and hold harmless the Conservancy from and against any claim, loss, damage, cost, expense, or liability directly or indirectly arising out of or resulting from (i) PSE's breach of this Agreement or the inaccuracy of any representation or warranty made by PSE in this Agreement, or (ii) PSE's, performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement, including without limitation claims caused by or arising out of the negligence, recklessness, or intentional misconduct of any representative, employee, or agent of PSE. The Parties acknowledge that the Covered Species are unique and that their loss as species would be irreparable and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

9.0 FORCE MAJEURE

In the event that a Party is wholly or partially prevented from performing obligations under this Agreement because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of Party ("Force Majeure"), including, but not limited to, acts of God, labor disputes, sudden actions of the elements not identified as Changed Circumstances, or actions of non-participating federal or state agencies or local jurisdictions, the Party shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, and such failure to perform shall not be considered a material violation or breach, provided that nothing in this section shall be deemed to authorize either Party to violate FESA, CESA or NCCPA, and provided further that:

- The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;
- Within seven (7) days after the occurrence of the Force Majeure, the Party invoking this section shall give the Conservancy written notice describing the particulars of the occurrence;
- The Party shall use best efforts to remedy its inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Party is contrary to its interest); and
- When the Party is able to resume performance of their obligations, it shall give the other Party written notice to that effect.

10.0 MISCELLANEOUS PROVISIONS

10.1 Calendar Days

Throughout this Agreement and the HCP/NCCP, the use of the term "day" or "days" means calendar days, unless otherwise specified.

10.2 Notices

Any notice permitted or required by this Agreement shall be in writing, and delivered personally, by overnight mail, or by United States mail, certified and postage prepaid, return receipt requested. Notices may be delivered by facsimile or electronic mail, provided they are also delivered by one of the means listed above. Delivery shall be to the name and address of the individual responsible for each of the Parties, as follows:

John Kopchik
East Contra Costa County Habitat Conservancy
c/o Contra Costa County Department of Conservation and Development
651 Pine Street, North Wing, 4th Floor
Martinez, CA 94553
Email: jkopc@cd.cccounty.us
Phone: 925-335-1227

Ric Rattray
Bay Area Rapid Transit District
300 Lakeside Drive, 21st Floor, P.O Box 12688
Oakland, Ca 94604-2688
Email: mratta@bart.com
Phone: 510-874-7319

Notices shall be transmitted so that they are received within the specified deadlines. Notices delivered personally shall be deemed received on the date they are delivered. Notices delivered via overnight delivery shall be deemed received on the next business day after deposit with the overnight mail delivery service. Notice delivered via certified mail, return receipt requested, shall be deemed received as of the date on the return receipt or five (5) days after deposit in the United States mail, whichever is sooner. Notices delivered by facsimile or other electronic means shall be deemed received on the date they are received.

10.3 Entire Agreement

This Agreement, together with the IA, the HCP/NCCP and the Permits, constitutes the entire agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

10.4 Amendment

This Agreement may only be amended with the written consent of both Parties.

10.5 Attorneys' Fees

If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, the Conservancy shall be able to recover its attorneys' fees and costs if it prevails.

10.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

10.7 Duplicate Originals

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

10.8 Relationship to the FESA, CESA, NCCPA and Other Authorities

The terms of this Agreement are consistent with and shall be governed by and construed in accordance with FESA, CESA, NCCPA and other applicable state and federal law.

10.9 No Third Party Beneficiaries

Without limiting the applicability of rights granted to the public pursuant to FESA, CESA, NCCPA or other applicable law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary thereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

10.10 References to Regulations

Any reference in this Agreement, the IA, the HCP/NCCP, or the Permits to any regulation or rule of the Wildlife Agencies shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

10.11 Applicable Laws

All activities undertaken pursuant to this Agreement, the IA, the HCP/NCCP, or the Permits must be in compliance with all applicable local, state and federal laws and regulations.

10.12 Severability

In the event one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement.

10.13 Due Authorization

Each Party represents and warrants that (1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action, (2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable it to enter into and comply with the terms of this Agreement, and (3) the person executing this Agreement on behalf of each Party has the authority to bind that Party.

10.14 No Assignment

The Parties shall not assign their rights or obligations under this Agreement, the Permits, or the HCP/NCCP to any other individual or entity.

10.15 Headings

Headings are using in this Agreement for convenience only and do not affect or define the Agreement's terms and conditions.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date last signed below.

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: _____
John Kopchik, Executive Director

BAY AREA RAPID TRANSIT DISTRICT

By: _____
Ric Rattray, Bay Area Rapid Transit District



East Contra Costa County
Habitat Conservation Plan
Natural Community
Conservation Plan

City of Brentwood
City of Clayton
City of Oakley
City of Pittsburg
Contra Costa County
ECCC Habitat Conservancy

Template prepared by the
ECCC Habitat Conservancy

651 Pine Street, North Wing, 4th Floor
Martinez, CA 94533-0095
Phone: 925/335-1290
Fax: 925/335-1299
www.cocohcp.org

Application Form and Planning Survey Report to Comply with and Receive Permit Coverage under the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan

Project Applicant Information:

Project Name: eBART Phase 1
Project Applicant's Company/Organization: BART
Contact's Name: Ric Rattray, P.E.
Contact's Phone: (510) 874-7319 Fax: (510) 287-4896
Contact's Email: mrattra@bart.gov
Mailing Address: 300 Lakeside Drive
21st Floor, P.O. Box 12688
Oakland, CA 94612

Project Description:

Lead Planner: Ms. Ellen Smith
Project Location: Caltrans right-of-way along Canal Road, 1618 W Leland Road and 183 Bliss Avenue. All sites are in the City of Pittsburg, California.
Project APN(s) #: unnumbered lot in Canal Road, 097160045, 088171037, and 088171032.
Number of Parcels/Units: 4
Size of Parcel(s): APN 097160045 is 3.5 acres, 088171037 is 2.0 acres, 088171032 portion is 0.4 acres, the Canal Road site is 0.3 acres.
Brief Project Description: eBART Phase 1 will require the construction of an ancillary building within the Canal Road site. Although eBART will be doing additional project construction, all of those activities will be localized to the existing Caltrans right-of-way. The additional lots will be used as laydown (staging areas) and construction parking areas.

Biologist Information:

Biological/Environmental Firm: PBS&J
Lead Contact: Carlos Alvarado
Contact's Phone: 916.325.4800 Fax: 916.325-4810
Contact's Email: calvarado@pbsj.com
Mailing Address: 1200 2nd St.
Sacramento, CA 95820

January 13, 2010

East Contra Costa County HCP/NCCP Planning Survey Report for eBART Participating Special Entity

I. Project Overview

Project proponent: BART

Project Name: eBART Phase 1

Application Submittal Date: March 12, 2010.

Jurisdiction: Contra Costa County Participating Special Entity
 City of Oakley
 City of Pittsburg
 City of Clayton
 City of Brentwood

**Check appropriate
Development Fee Zone(s):** Zone I
 Zone II
 Zone III

See Figure 9-1 of the Final HCP/NCCP for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction or at www.cocohcp.org.

**Acreage of land to be
permanently disturbed²:** 0.3 acres

**Acreage of land to be
temporarily disturbed³:** 3.5 acres

¹ *Participating Special Entities* are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, water districts, irrigation districts, transportation agencies, local park districts, geologic hazard abatement districts, or other utilities or special districts that own land or provide public services.

² *Acreage of land permanently disturbed* is broadly defined in the HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development fee will apply. The development fees were calculated with the assumption that all undeveloped areas within a parcel (e.g., fragments of undisturbed open space within a residential development) would be charged a fee; the fee per acre would have been higher had this assumption not been made. See Chapter 9 of the HCP/NCCP for details.

³ *Acreage of land temporarily disturbed* is broadly defined in the HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).

Project Description

Concisely and completely describe the project and location. Reference and attach a project vicinity map (Figure 1) and a site plan (Figure 2) for the proposed project. Include all activities proposed for site, including those disturbing ground (roads, bridges, outfalls, runoff treatment facilities, parks, trails, etc.) to ensure the entire project is covered by the HCP/NCCP permit. Also include proposed construction dates. Reference a City/County application number for the project where additional project details can be found.

As part of the eBART Phase 1 Project, BART will start construction of transit facilities in the median of State Route 4 starting at BART's Pittsburg/Bay Point Station and extending approximately 3.7 miles in length to approximately one-third of a mile west of the Loveridge Road overcrossing interchange (Figure 1). BART is expecting to provide its contractor a Notice to Proceed on August 17, 2010. However, field work would not begin for two to three months after the Notice to Proceed, since the contractor would be required to apply for permits and make submittals. Substantial completion of the project is anticipated on August 16, 2012, with a final completion by mid-October, 2012. As part of the project BART will construct an ancillary building within the Caltrans Right-of-way located at in Canal Road, approximately 0.2 miles east of the intersection of Madison Avenue and Canal Road in the City of Pittsburg, California. BART will have to remove the existing trees and shrubs, a concrete ditch and storm drain pipe, and level the site for construction as per project specifications. Figure 2 presents the site plan for the ancillary building. BART is also proposing two staging areas; the Bailey Road staging area site (Figure 3A) is being proposed as a material storage and parking for the eBART project that would be used for approximately two (2) years. The Bailey Road site will be prepared before use by laying a filter fabric and adding 12 inches of gravel depth over the use area, the contractor will be responsible for removing the gravel and filter fabric. The Bliss Avenue Laydown Site consists of the graveled covered lot in the northwest corner of the intersection of Harbor Street and Bliss Avenue and a portion of the adjacent BART Park and Ride Lot (Figure 3C). The Bliss Avenue Laydown Site is also being proposed as a material storage and construction parking area for the project, it is anticipated that this area will also be used for approximately two (2) years. The portion of the BART Park and Ride would serve as construction office trailer and vehicle parking.

All of the work for the eBART project will occur within the Caltrans right-of-way. A summary of this work is presented in Appendix A.



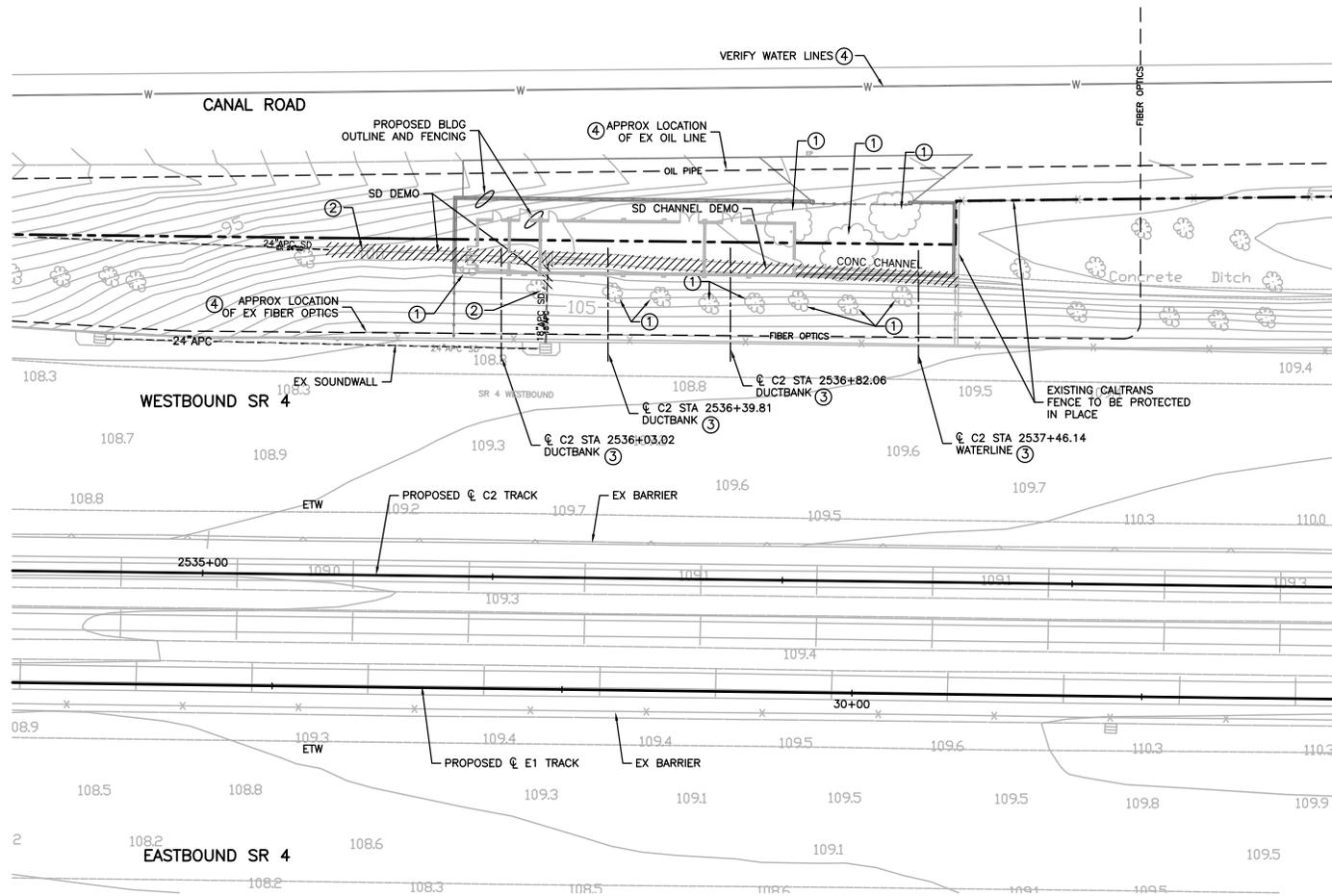
N:\GIS\Projects\EBART\TXDs - 2010\Project Vicinity.mxd



FIGURE 1
Project Vicinity

100013216

EBART Conservancy Application

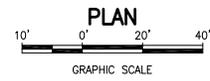


NOTES:

1. SITE FOR THE BUILDING AND CONCRETE PATHS/DRIVEWAY SHALL BE CLEARED PER PROJECT SPECIFICATIONS.
2. CONTRACTOR SHALL NOTIFY ENGINEER IF THERE ARE CONFLICTS WITH THE PROPOSED JACK AND BORE LOCATIONS AND THE EXISTING PILES AT THE SOUNDWALLS.
3. CONTRACTOR SHALL PROTECT IN PLACE EX CALTRANS IMPROVEMENTS UNO IN THIS DEMOLITION PLAN.
4. ELECTRICAL, COMMUNICATION, AND WATER SERVICES WILL CROSS THE EXISTING SHELL LINE. REFER TO SHEETS C111 AND C112 FOR UTILITY LOCATIONS. CONTRACTOR SHALL CONTACT U.S.A. PRIOR TO POTHOLING SHELL LINE TO CONFIRM DEPTH.

DEMOLITION SCHEDULE:

- ① REMOVE EXISTING TREES AND VEGETATION WITHIN NEW BUILDING, DUCTBANK, RETAINING WALL, AND CONCRETE LIMITS.
- ② PROPOSED ANCILLARY BUILDING LIMITS WILL REQUIRE PARTIAL REMOVAL OF CONCRETE V-CHANNEL AND STORM DRAIN PIPES. REMOVE V-CHANNEL AND STORM DRAIN PIPES AS SHOWN.
- ③ VERIFY SOUND WALL PILES AND CONFIRM NO CONFLICT WITH PROPOSED DUCTBANK ELEVATIONS. CONTRACTOR SHALL TAKE CAUTION DURING EXCAVATION OPERATIONS TO PROTECT PILES AND SOUNDWALL.
- ④ VERIFY EXACT LOCATION AND DEPTH OF EXISTING UTILITIES AND CONFIRM NO CONFLICT WITH PROPOSED UTILITY CROSSING. PROTECT EXISTING UTILITIES DURING EXCAVATION.



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FIGURE 2
Canal Road Ancillary Building Site Plan

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II. Existing Conditions and Impacts

Land Cover Types

In completing the checklist in Table 1, click in the appropriate fields and type the relevant information. Please calculate acres of terrestrial land cover types to nearest tenth of an acre. Calculate the areas of all jurisdictional wetlands and waters land cover types to the nearest hundredth of an acre. If the field is not applicable, please enter N/A. The sum of the acreages in the *Acreage of land to be "permanently disturbed" and "temporarily disturbed" by project* column should equal the total impact acreage listed above.

Land cover types and habitat elements identified with an ^(a) in Table 1 require identification and mapping of habitat elements for selected covered wildlife species. In Table 2a and 2b below, check the land cover types and habitat elements found in the project area and describe the results. Insert a map of all land cover types present on-site and other relevant features overlaid on an aerial photo below as Figure 3.

Table 1. Land Cover Types on the Project Site as Determined in the Field and Shown in Figure 3.

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project ^b	Acreage of Land to be "Temporarily Disturbed" by Project ^b	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel ^c	
			Stream Setback	Preserve System Dedication
Grassland^a				
<input type="checkbox"/> Annual grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Alkali grassland	N/A	N/A	N/A	N/A
<input checked="" type="checkbox"/> Ruderal	0.3	3.5	N/A	N/A
<input type="checkbox"/> Chaparral and scrub	N/A	N/A	N/A	N/A
<input type="checkbox"/> Oak savanna^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Oak woodland	N/A	N/A	N/A	N/A
Jurisdictional wetlands and waters				
<input type="checkbox"/> Riparian woodland/scrub	N/A	N/A	N/A	N/A
<input type="checkbox"/> Permanent wetland ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Seasonal wetland ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Alkali wetland ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Aquatic (Reservoir/Open Water) ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Slough/Channel ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Pond ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Stream (acres) ^{a, d}	N/A	N/A	N/A	N/A
<input type="checkbox"/> Total stream length (feet) ^{a, d}	N/A	N/A	N/A	N/A
Stream length by width category				
<input type="checkbox"/> ≤ 25 feet wide	N/A	N/A	N/A	N/A

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project ^b	Acreage of Land to be "Temporarily Disturbed" by Project ^b	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel ^c	
			Stream Setback	Preserve System Dedication
<input type="checkbox"/> > 25 feet wide	N/A	N/A	N/A	N/A
Stream length by type and order ^e				
<input type="checkbox"/> Perennial	N/A	N/A	N/A	N/A
<input type="checkbox"/> Intermittent	N/A	N/A	N/A	N/A
<input type="checkbox"/> Ephemeral, 3 rd or higher order	N/A	N/A	N/A	N/A
<input type="checkbox"/> Ephemeral, 1 st or 2 nd order	N/A	N/A	N/A	N/A
Irrigated agriculture^a				
<input type="checkbox"/> Cropland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Pasture	N/A	N/A	N/A	N/A
<input type="checkbox"/> Orchard	N/A	N/A	N/A	N/A
<input type="checkbox"/> Vineyard	N/A	N/A	N/A	N/A
Other				
<input type="checkbox"/> Nonnative woodland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Wind turbines	N/A	N/A	N/A	N/A
Developed				
<input checked="" type="checkbox"/> Urban	N/A	2.4	N/A	N/A
<input type="checkbox"/> Aqueduct	N/A	N/A	N/A	N/A
<input type="checkbox"/> Turf	N/A	N/A	N/A	N/A
<input type="checkbox"/> Landfill	N/A	N/A	N/A	N/A
Uncommon Vegetation Types (subtypes of above land cover types)				
<input type="checkbox"/> Purple needlegrass grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Wildrye grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Wildflower fields	N/A	N/A	N/A	N/A
<input type="checkbox"/> Squirreltail grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> One-sided bluegrass grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Serpentine grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Saltgrass grassland (= alkali grassland)	N/A	N/A	N/A	N/A
<input type="checkbox"/> Alkali sacaton bunchgrass grassland	N/A	N/A	N/A	N/A
<input type="checkbox"/> Other uncommon vegetation types (please describe)	N/A			
Uncommon Landscape Features or Habitat Elements				

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project ^b	Acreage of Land to be "Temporarily Disturbed" by Project ^b	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel ^c	
			Stream Setback	Preserve System Dedication
<input type="checkbox"/> Rock outcrop	N/A	N/A	N/A	N/A
<input type="checkbox"/> Cave ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Springs/seeps	N/A	N/A	N/A	N/A
<input type="checkbox"/> Scalds	N/A	N/A	N/A	N/A
<input type="checkbox"/> Sand deposits	N/A	N/A	N/A	N/A
<input type="checkbox"/> Mines ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Buildings (bat roosts) ^a	N/A	N/A	N/A	N/A
<input type="checkbox"/> Potential nest sites (trees or cliffs) ^a	N/A	N/A	N/A	N/A
Total	0.3	5.9		N/A

^a Designates habitat elements that may trigger specific survey requirements and/or best management practices for key covered wildlife species. See Chapter 6 in the HCP/NCCP for details.

^b See Section 9.3.1 of the HCP/NCCP for a definition of "permanently disturbed" and "temporarily disturbed." In nearly all cases, all land in the subject parcel is considered permanently disturbed.

^c Dedication of land in lieu of fees must be approved by the local agency and the Implementing Entity before they can be credited toward HCP/NCCP fees. See Section 8.6.7 on page 8-32 of the Plan for details on this provision. Stream setback requirements are described in Conservation Measure 1.7 in Section 6.4.1 and in Table 6-2.

^d Specific requirements on streams are discussed in detail in the HCP/NCCP. Stream setback requirements pertaining to stream type and order can be found in Table 6-2. Impact fees and boundary determination methods pertaining to stream width can be found in Table 9-5. Restoration/creation requirements in lieu of fees depend on stream type and can be found in Tables 5-16 and 5-17.

^e See glossary (Appendix A) for definition of stream type and order.

Field-Verified Land Cover Map

Insert current field-verified land cover map of site here. The map should contain all land cover types present on-site and other relevant features overlaid on an aerial photo. Identify all pages as Figure 3.



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FIGURE 3A
**Field Verified Land Cover
 Bailey Rd Laydown Site**

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FIGURE 3B
Field Verified Land Cover
Canal Rd Ancillary Building Site

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Bliss Avenue Laydown Site

-  Construction Material Storage
-  Proposed Office Trailer Parking
-  BART Park and Ride Lot



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FIGURE 3C

**Field Verified Land Cover
Bliss Avenue Laydown Site**

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Jurisdictional Wetlands and Waters

Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the Final HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. (It should be noted that definitions of these features differ for state and federal jurisdictions.) If you have identified any of these land cover types to be present on the project site in Table 1, complete the section below.

Indicate agency that certified the wetland delineation:

USACE, RWQCB, or the ECCC Habitat Conservancy.

Wetland delineation is attached (Jurisdictional Determination)

Provide any additional information on Impacts to Jurisdictional Wetland and Waters below.

No wetlands or “waters of the U.S. were found within the project.

Species-Specific Planning Survey Requirements

Based on the land cover types found on-site and identified in Table 1, check the applicable boxes in Table 2a then provide the results of the planning surveys below. In Table 3 check corresponding preconstruction survey or notification requirements that are triggered by the presence of particular landcover types or species habitat elements as identified in Table 2a. The species-specific planning survey requirements are described in more detail in Section 6.4.3 of the HCP/NCCP.

Table 2a. Species-Specific Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements in the project area based on Chapter 6 of the Final HCP/NCCP.

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
<input checked="" type="checkbox"/> Grasslands, oak savanna, agriculture, ruderal	San Joaquin kit fox	Assumed if within modeled range of species	Identify and map potential breeding and denning habitat and potential dens if within modeled range of species (see Appendix D of HCP/NCCP).
	Western burrowing owl	Assumed	Identify and map potential breeding habitat.
<input type="checkbox"/> Aquatic (ponds, wetlands, streams, slough, channels, & marshes)	Giant garter snake	<input type="checkbox"/> Aquatic habitat accessible from San Joaquin River	Identify and map potential habitat.

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
	California tiger salamander	<input type="checkbox"/> Ponds and wetlands in grassland, oak savanna, oak woodland <input type="checkbox"/> Vernal pools <input type="checkbox"/> Reservoirs <input type="checkbox"/> Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
	California red-legged frog	<input type="checkbox"/> Slow-moving streams, ponds, and wetlands	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
<input type="checkbox"/> Seasonal wetlands	Covered shrimp	<input type="checkbox"/> Vernal pools <input type="checkbox"/> Sandstone rock outcrops <input type="checkbox"/> Sandstone depressions	Identify and map potential breeding habitat.
Any	Townsend's big-eared bat	<input type="checkbox"/> Rock formations with caves <input type="checkbox"/> Mines <input type="checkbox"/> Abandoned buildings outside urban areas	Map and document potential breeding or roosting habitat.
	Swainson's hawk	<input checked="" type="checkbox"/> Potential nest sites (trees within species' range usually below 200')	Inspect large trees for presence of nest sites.
	Golden eagle	<input type="checkbox"/> Potential nest sites (secluded cliffs with overhanging ledges; large trees)	Document and map potential nests.
^a Vernal pool fairy shrimp, vernal pool tadpole shrimp, longhorn fairy shrimp, and midvalley fairy shrimp.			

Results of Species-Specific Planning Surveys Required in Table 2a

Describe the results of the planning survey conducted as required in Table 2a. Planning surveys will assess the location, quantity, and quality of suitable habitat for specified covered wildlife species on the project site. Covered species are assumed to occupy suitable habitat in impact areas and mitigation is based on assumption of take.

Bailey Road Laydown Site

The proposed Bailey Road Laydown Site (site) is located just east of the Pittsburg Bay Point BART Station parking lot on West Leland Road (Figure 3A). The site survey was conducted on January 27th 2010 by PBS&J biologists Todd Wong and Carlos Alvarado. The site consists of a 3.5 acres undeveloped lot bordered by commercial development to the east, State Route 4 to the north, the Pittsburg Bay Point Station parking lot to the west and West Leland Road to the south. The site slopes to the north and supports ruderal grassland throughout the site.

The site appears to be maintained by mowing. Plant species observed during the survey include ripgut brome (*Bromus diandrus*), soft brome (*Bromus hordeaceus*), yellow starthistle (*Centarea solstitialis*), hairy vetch (*Vicia villosa*), birdsrape mustard (*Brassica rapa*), clover (*Trifolium* sp.), bristly ox-tongue (*Picris echioides*), lupine (*Lupinus bicolor*), red stemmed filaree (*Erodium cicutarium*), common groundsel (*Senecio vulgare*), Italian ryegrass (*Lolium multiflorum*), pigweed (*Amaranthus albus*), annual sunflower (*Helianthus annuus*), bur clover (*Medicago hispida*), wild radish (*Raphanus sativa*), common fiddleneck (*Amsinckia menziesii*), wild oats (*Avena fatua*), pepperweed (*Lepidium* sp.), doveweed (*Croton setigerus*), perennial sow thistle (*Sonchus arvensis*), fireweed (*Epilobium angustifolium*), scotch broom (*Cytisus scoparius*), cheeseweed mallow (*Malva parviflora*), and artichoke thistle (*Cynara cardunculus*). The only tree species observed within the site is tree of heaven (*Ailanthus altissima*). The west and east borders of the site also contain trees, these trees were planted as ornamental vegetation and consist of privet (*Ligustrum* sp.) on the west side and Pacific redwood (*Sequoia sempervirens*) on the east. These trees are not expected to be affected by the storage of parts, equipment and project parking activities. Wildlife species or wildlife signs observed include slug (*Milax* sp.), pill bug (*Armadillidium vulgare*), earwing (*Forficula auricularia*), American crow (*Corvus branchyrhynchos*), Anna's hummingbird (*Calypte anna*), western scrubjay (*Aphelocoma californica*), California gull (*Larus californicus*), red-winged blackbird (*Agelaius phoeniceus*), Brewer's blackbird (*Euphagus cyanocephalus*), American goldfinch (*Carduelis tristis*), Lesser goldfinch (*Carduelis psaltria*), Botta's pocket gopher (*Thomomys bottae*), and California ground squirrel [burrow] (*Spermophilus beecheyi*).

The location of the site makes it vulnerable for trash accumulation, not only from the BART station but also from the commercial complex. Several clumps of trash were observed through the site, food wrappings, cups, cardboard boxes, halogen tubes, shopping cars, backpacks, seat cushions, golf balls, and store signs were some of the items observed.

The trees along the west and eastern boundaries were surveyed for nest structures. No nests were observed during the survey. The trees are relatively short in height and provide little canopy cover, this might preclude the presence of nesting activities since the nests might be expose to predation.

Although the site provides suitable foraging habitat (ruderal grassland) for the San Joaquin kit fox, no breeding or denning habitat is available on site. No dens or other San Joaquin kit fox signs (scat, prey bones, etc.) were observed within the site. The urban nature of the location and the lack of connectivity to other suitable areas most likely preclude the presence of the species.

Although California ground squirrel burrows were observed on site, no squirrels were observed during the survey. No whitewash or pellets were observed at the entrance of these burrows and based on the presence of spider webs, these burrows do not appear to have been used for quite some time. No western burrowing owls or their sign (white wash, pellets, insect remains) were observed on the site. The California ground squirrel burrows observed could provide suitable nesting habitat for the western burrowing owl, however, due to weed maintenance activities it is unlikely that they would use the site.

The site does not support wetlands and no water ponding was observed even though the ground was saturated due to recent rains.

Canal Road Ancillary Building Site

The location of the proposed Ancillary Building project site (site) is located 0.2 miles east of the intersection of Canal Road and Madison Avenue in the City of Pittsburg, California (Figure 3B). PBS&J biologist Todd Wong and Carlos Alvarado surveyed the site on January 27th, 2010. The site is 0.3 acres and is bordered by the California State Route 4 sound wall to the south, Caltrans fenced lot to the east, Canal Road to the north and Caltrans and Contra Costa County ROW to the west. The site supports ruderal grassland and ornamental trees. Plant species observed include ripgut brome (*Bromus diandrus*), Italian ryegrass (*Lolium multiflorum*), red stemmed filaree (*Erodium cicutarium*), hairy vetch (*Vicia villosa*), birdsrape mustard (*Brassica rapa*), clover (*Trifolium* sp.), bristly ox-tongue (*Picris echioides*), wildradish (*Raphanus sativa*), wild oats (*Avena fatua*), cheeseweed mallow (*Malva parviflora*), sweet fennel (*Foeniculum vulgare*). Tree species observed include Peruvian peppertree (*Schinus molle*), coastal live oak (*Quercus agrifolia*), cherry (*Prunus* sp.), and Carob tree (*Ceratonia siliqua*). Wildlife species observed on site included western scrubjay (*Aphelocoma californica*), mourning dove (*Zenaida macroura*), northern mockingbird (*Mimus polyglottos*) California ground squirrel [burrows] (*Spermophilus beecheyi*) and ladybug (*Coccinella* sp.). No other wildlife species or their sign were observed during the site visit.

Existing improvements to the site include an irrigation system for the trees and a concrete ditch that drains into a storm drain just west of the site. The site is maintained by mowing and apparently by spraying. Due to the location of the site limited wildlife habitat is available, the trees on site could provide suitable nesting habitat for bird species protected under the Migratory Bird Treaty Act. No nests were observed within the trees proposed for removal, however, two last-season mourning dove nests were observed in a coastal live oak just west of the site.

As part of the survey and due to the proximity of the area, the empty lot north of Canal Road was also surveyed with the use of binoculars for the presence of protected species. A feral cat (*Felis silvestris*), northern mockingbird and scrub jay were observed on the area. No other wildlife species were observed.

No wetlands or "Waters of the U.S." were found during the field survey.

Bliss Avenue Laydown Site

The Bliss Avenue Laydown Site includes a small portion (0.4 acres) within the existing BART Park and Ride Lot (APN 088171032) and the other section is within (APN 088171037), a 2.0 acre gravel covered lot (Figure 3C). Both sites have an urban land cover designation in Figure 3-3: Landcover in the Inventory Area of the East Contra Costa County HCP/NCCP. The site is located in the northwest corner of the intersection of Bliss Avenue and Harbor Street in the City of Pittsburg, California. The Bliss Avenue Laydown Site is bordered to the north by State Route 4, to the east by Harbor Street, to the south by Bliss Avenue and to the west by additional BART Parking Lot. The portion within the BART Park and Ride lot is proposed as a construction office trailer and vehicle parking. The portion within the graveled covered lot is proposed for material storage and construction parking for the project.

The land cover present on both sites is urban/developed. Limited vegetation occurs within the sites. Site A supports ornamental vegetation along its eastern border and consists of a row of sycamore trees (*Platanus racemosa*) and Wheeler's Dwarf Pittosporum (*Pittosporum tobira*). Vegetation observed within Site B consists of ripgut brome (*Bromus diandrus*), birdsrape mustard (*Brassica rapa.*), hairy vetch (*Vicia villosa*), red stemmed filaree (*Erodium cicutarium*), wild oats (*Avena fatua*), fireweed (*Epilobium angustifolium*), scotch broom (*Cytisus scoparius*), Bermuda grass (*Cynodon dactylon*), yellow starthistle (*Centarea solstitialis*), pigweed (*Amaranthus albus*), Russian thistle (*Salsola sp.*), prickly lettuce (*Lactuca serriola*), asthmaweed (*Conyza sp.*), wild carrot (*Daucus sp.*) and common knotweed (*Polygonum arenastrum*). Peruvian pepper tree (*Schinus molle*), willow (*Salix sp.*) and Mexican fan palm (*Washingtonia robusta*) were the only woody vegetation observed within Site B. Wildlife species observed include California gull (*Larus californicus*), western scrubjay (*Aphelocoma californica*), and mourning dove (*Zenaida macroura*).

Due to the developed nature of the site, no wetlands or "waters of the U.S." are present on the site.

Covered and No-Take Plants

On suitable land cover types, surveys for covered and no-take plants must be conducted using approved CDFG/USFWS methods during the appropriate season to identify any covered or no-take plant species that may occur on the site (see page 6-9 of the Final HCP/NCCP). Based on the land cover types found in the project area and identified in Table 1, check the applicable boxes in Table 2b and provide a summary of survey results as required below. If any no-take plants are found in the project area, the provisions of Conservation Measure 1.11 must be followed (see *Avoidance and Minimization Measures* below).

Table 2b. Covered and No-Take Plant Species, Typical Habitat Conditions, and Typical Blooming Periods

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
<input type="checkbox"/> Oak savanna	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
<input type="checkbox"/> Oak woodland	Brewer's dwarf flax (<i>Hesperolinon breweri</i>)	C		May–Jul
	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
	Showy madia (<i>Madia radiata</i>)	C		Mar–May
<input type="checkbox"/> Chaparral and scrub	Brewer's dwarf flax (<i>Hesperolinon breweri</i>)	C		May–Jul
	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo buckwheat (<i>Eriogonum truncatum</i>)	N		Apr–Sep; uncommonly Nov–Dec.
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
	Mount Diablo Manzanita (<i>Arctostaphylos auriculata</i>)	C	Elevation between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo ^b	Jan–Mar
<input type="checkbox"/> Alkali grassland	Brittlescale (<i>Atriplex depressa</i>)	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^b	May–Oct
	Caper-fruited tropidocarpum (<i>Tropidocarpum capparideum</i>)	N		Mar–Apr
	Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Generally found in vernal pools	Mar–Jun
	Recurved larkspur (<i>Delphinium recurvatum</i>)	C		Mar–Jun

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
	San Joaquin spearscale (<i>Atriplex joaquiniana</i>)	C		Apr–Oct
<input type="checkbox"/> Alkali wetland	Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N		Mar–Jun
	Brittlescale (<i>Atriplex depressa</i>)	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^b	May–Oct
	San Joaquin spearscale (<i>Atriplex joaquiniana</i>)	C		Apr–Oct
<input checked="" type="checkbox"/> Annual grassland	Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N		Mar–Jun
	Big tarplant (<i>Blepharizonia plumosa</i>)	C	Elevation below 1500 feet ^b	Jul–Oct
	Brewer's dwarf flax (<i>Hesperolinon breweri</i>)	C	Restricted to grassland areas within a 500+ buffer from oak woodland and chaparral/scrub ^b	May–Jul
	Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Generally found in vernal pools	Mar–Jun
	Diamond-petaled poppy (<i>Eschscholzia rhombipetala</i>)	N		Mar–Apr
	Large-flowered fiddleneck (<i>Amsinckia grandiflora</i>)	N		Apr–May
	Mount Diablo buckwheat (<i>Eriogonum truncatum</i>)	N		Apr–Sep; uncommonly Nov–Dec
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 ^b	Apr–Jun
	Round-leaved filaree (<i>California macrophylla</i>) ¹	C		Mar–May
	Showy madia (<i>Madia radiata</i>)	C		Mar–May

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
<input type="checkbox"/> Seasonal wetland	Adobe navarretia (<i>Navarretia nigelliformis</i> ssp. <i>nigelliformis</i>)	C	Generally found in vernal pools ^b	Apr–Jun
	Alkali milkvetch (<i>Astragalus tener</i> sp. <i>tener</i>)	N		Mar–Jun
	Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Generally found in vernal pools	Mar–Jun

^a From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site.

^b See Species Profiles in Appendix D of the Final HCP/NCCP.

Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b

Describe the results of the planning survey conducted as required in Table 2b. Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all survey's conducted (see Tables 3-8 and 6-5 of the HCP/NCCP for covered and no-take plants).

If any covered or no-take plants were found, include the following information in the results summary:

- Description and number of occurrences and their rough population size.
- Description of the “health” of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.
- Justification of surveying time window, if outside of the plant's blooming period.
- The CNDDDB form(s) submitted to CDFG (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and/or how the project will avoid impacts to all covered and no-take plant species. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

As part of the permitting process, eBART conducted floristic surveys for special status species throughout the eBART alignment. No special status plants were observed during the surveys. Please see attached Special-Status Plant Survey Report; eBART (Project #: 0D4138100) in Appendix B.

III. Species-Specific Monitoring and Avoidance Requirements

This section discusses subsequent actions that are necessary to ensure project compliance with Plan requirements. Survey requirements and Best Management Practices pertaining to selected covered wildlife species are detailed in Section 6.4.3, *Species-Level Measures*, beginning on page 6-36 of the Final HCP/NCCP.

Preconstruction Surveys for Selected Covered Wildlife

If habitat for selected covered wildlife species identified in Table 2a was found to be present in the project area. In Table 3, identify the species for which preconstruction surveys or notifications are required based on the results of the planning surveys. Identify whether a condition of approval has been inserted into the development contract to address this requirement.

Table 3. Applicable Preconstruction Survey and Notification Requirements based on Land Cover Types and Habitat Elements Identified in Table 2a.

Species	Preconstruction Survey and Notification Requirements
<input type="checkbox"/> None	
<input type="checkbox"/> San Joaquin kit fox (p. 6-38)	Map all dens (>5 in. diameter) and determine status. Determine if breeding or denning foxes are in the project area. Provide written preconstruction survey results to FWS within 5 working days after surveying.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Map all burrows and determine status. Document use of habitat (e.g. breeding, foraging) in/near disturbance area (within 500 ft.)
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate aquatic habitat up to 200 ft. from water's edge. Document any sightings of garter snake.
<input type="checkbox"/> California tiger salamander (p. 6-46) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence in the project area.
<input type="checkbox"/> California red-legged frog (p. 6-47) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence in the project area.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Document and evaluate use of all habitat features (e.g., vernal pools, rock outcrops). Document occurrences of covered shrimp.
<input type="checkbox"/> Townsend's big-eared bat (p. 6-37)	Determine if site is occupied or shows signs of recent occupation (guano).
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.
Note: Page numbers refer to the HCP/NCCP.	

Preconstruction Surveys as Required for Selected Covered Wildlife in Table 3

Describe the preconstruction survey's or notification conditions applicable to any species checked in Table 3. All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, *Species-Level Measures*, and Table 6-1 of the HCP/NCCP.

Burrowing Owl Preconstruction Survey Requirement

Prior to any ground disturbance related to covered activities, a USFWS/CDFG approved biologist will conduct a burrowing owl preconstruction survey within the Bailey Road Laydown Site and within the Canal Road Ancillary Building Site. These two sites were the only areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFG survey guidelines (California Department of Fish and Game 1993).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFG guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1–August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

Migratory Bird Treaty Act Covered Birds Preconstruction Survey Requirement

Prior to any ground disturbance related to covered activities, a USFWS/CDFG approved biologist will conduct a MBTA nesting bird preconstruction surveys within the Bailey Road Laydown Site and within the Canal Road Ancillary Building Site. The surveys will establish the presence or absence of MBTA covered species and/or habitat features and evaluate the use by MBTA covered species. This survey can be carried out concurrently with the burrowing owl survey.

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify nests and birds. If potentially occupied nests within 500 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of MBTA protected species activity (e.g., foraging) near the project site.

All MBTA protected species' nests will be identified and mapped. Surveys will take place no more than 21 days prior to construction. During the breeding season (February 1–August 31), surveys will document whether MBTA protected birds are nesting in or directly adjacent to disturbance areas. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

Swainson's Hawk Preconstruction Survey Requirement

Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site.

San Joaquin Kit Fox

San Joaquin kit fox surveys will not be performed because the Bailey Road Laydown Site, Bliss Avenue Laydown Site, and the Canal Road Ancillary Building Site are not within the modeled habitat for the San Joaquin kit fox and are completely isolated from open space areas by miles of dense development.

Construction Monitoring & Avoidance and Minimization Measures for Selected Covered Species

If preconstruction surveys for key covered wildlife species establish the presence of any such species, construction monitoring will be necessary. In Table 4, check the boxes for the species that will be assessed during the preconstruction surveys (see Table 3). A summary of the construction monitoring requirements for each species is provided in Table 4 and these measures must be implemented in the event that preconstruction surveys described in Table 3 detect the covered species. A summary of avoidance measures is also provided in Table 4 and these measures must be implemented if construction monitoring detects the species or its sign. These construction monitoring and avoidance requirements are described in detail in Section 6.4.3, Species-Level Measures, of the Final HCP/NCCP.

Construction Monitoring Plan Requirements in Section 6.3.3, Construction Monitoring, of the Final HCP/NCCP:

- Before implementing a covered activity, the applicant will develop and submit a construction-monitoring plan to the Implementing Entity⁴ for approval.**

Table 4. Applicable Construction Monitoring Requirements

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> None	N/A
<input type="checkbox"/> San Joaquin kit fox (p. 6-38)	Establish exclusion zones (>50 ft) for potential dens. Establish exclusion zones (>100 ft) for known dens. Notify USFWS of occupied natal dens.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.

⁴ The East Contra Costa County Habitat Conservancy and the local land use Jurisdiction must review and approve the plan prior to the commencement of all covered activities (i.e. construction).

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate 200-ft buffer around potential habitat. Provide field report on monitoring efforts. Stop construction activities if snake is encountered; allow snake to passively relocate. Remove temporary fill or debris from construction site. Mandatory training for construction personnel.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Establish buffer around outer edge of all hydric vegetation associated with habitat (50 feet of limit of immediate watershed supporting the wetland, whichever is larger). Mandatory training for construction personnel.
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance.
<input type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

Construction Monitoring & Avoidance and Minimization Measures as Required for Selected Covered Wildlife in Table 4

Describe the construction monitoring and avoidance and minimization measures applicable to any species checked in Table 4. A summary of avoidance measures is provided in Table 4, these measures must be implemented if construction monitoring detects the presence of the species. The construction monitoring & avoidance and minimization measures requirements are described in detail in Section 6.4.3, Species-Level Measures, of the HCP/NCCP.

Burrowing Owl Construction Monitoring & Avoidance and Minimization Measures Requirements

In the event that the preconstruction surveys detect the presence of western burrowing owls, eBART will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non disturbance buffer zone (250 feet around nests, 160 feet around burrows).

In the event that burrows cannot be avoided, a qualified biologist will monitor the nest and determine if the birds have not begun egg-laying. If egg-laying has not started, the owls will be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area shall be monitored daily for 1 week to confirm that the owl(s) have abandoned the burrow. Burrows shall be excavated by hand tools and refilled to prevent reoccupation following the CDFG 1995 staff report guidelines.

Swainson's Hawk Construction Monitoring & Avoidance and Minimization Measures Requirements

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity will coordinate with CDFG/USFWS to determine the appropriate buffer size.

If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the Implementing Entity for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFG. While the nest is occupied, activities outside the buffer can take place.

All active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirements below.

Mitigation for Loss of Nest Trees:

The loss of non-riparian Swainson's hawk nest trees will be mitigated by the project proponent by:

If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below.

AND either

1. Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR

2. The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

The following requirements will be met for all planting options:

Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.

Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.

Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years for cottonwoods and willows) and in the long term (e.g., Valley oak, sycamore). This will also minimize the temporal loss of nest trees.

Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirement above, if the nest trees are riparian species.

Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).

Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.

Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's hawk in the inventory area and as close as possible to high-quality foraging habitat.

MBTA Covered Species

In the event that the preconstruction surveys detect the presence of MBTA protected species, eBART will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non disturbance buffer zone (250 feet around nests). If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity will coordinate with CDFG/USFWS to determine the appropriate buffer size.

IV. Landscape and Natural Community-Level Avoidance and Minimization Measures

Describe relevant avoidance and minimization measures required to address the conservation measures listed below. If a conservation measure is not relevant to the project, explain why.

For All Projects

HCP/NCCP Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion

Briefly describe how the project complies with this measure. See page 6-21 of the Final HCP/NCCP for details.

No impacts to wetlands are anticipated for the portion of the Project within the SR 4 median, Caltrans ROW, including the proposed transfer platform, Railroad Avenue Station, ancillary building, staging areas, the employee parking lot and staff building near the transfer platform, and the tracks, because no wetlands exist in this stretch of the median. The creeks that cross SR 4 are in culverts or box channels and would not be affected by the construction of the Project.

HCP/NCCP Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds

Briefly describe how the project complies with this measure. See page 6-23 of the Final HCP/NCCP for details.

Planning surveys conducted for the eBART project found no special status plants or wildlife species (including covered migratory birds) within the project sites. Therefore, the project will not result in direct or indirect impacts to these species.

For Projects on or adjacent to Streams or Wetlands

HCP/NCCP Conservation Measure 1.7. Establish Stream Setbacks

Briefly describe how the project complies with this measure. See page 6-15 and Table 6-2 of the Final HCP/NCCP for details. For questions on the stream setback requirements, please contact the Conservancy.

HCP/NCCP Conservation Measure 1.7 does not apply to the proposed project because there are no streams within or adjacent to the proposed sites.

HCP/NCCP Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization

Briefly describe how the project complies with this measure. See page 6-33 of the Final HCP/NCCP for details.

HCP/NCCP Conservation Measure 2.12 does not apply to the proposed project because there are no wetlands, ponds or streams within the proposed sites.

For Projects adjacent to Protected Natural Lands (existing and projected)

Covered activities adjacent to permanently protected natural lands will require a variety of special considerations to address issues associated with characteristics of the urban-wildland interface. These considerations are intended to minimize the impacts of development on the integrity of habitat preserved and protected under the terms of the Plan. Permanently protected natural lands are defined as any of the following (see the latest Preserve System map on the Conservancy web site, www.cocohcp.org).

- Publicly owned open space with substantial natural land cover types including but not limited to state and regional parks and preserves and public watershed lands (local and urban neighborhood parks are excluded).
- Deed-restricted private conservation easements.
- HCP/NCCP Preserve System lands.
- Potential HCP/NCCP Preserve System lands (see Figure 5-3 in the HCP/NCCP).

HCP/NCCP Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space

Briefly describe how the project complies with this measure. See page 6-14 of the Final HCP/NCCP for details.

The proposed sites are located within the urban area of the City of Pittsburg and no Open Space areas are located within the immediate vicinity of the sites, therefore HCP/NCCP Conservation Measure 1.6 does not apply to the eBART Phase 1 project.

HCP/NCCP Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property

Briefly describe how the project complies with this measure. See page 6-18 of the Final HCP/NCCP for details.

The proposed sites are not adjacent to HCP/NCCP preserves, likely HCP/NCCP acquisition sites, or existing public space, therefore HCP/NCCP Conservation Measure 1.8 does not apply to the eBART Phase 1 project.

HCP/NCCP Conservation Measure 1.9. Incorporate Urban-Wildland Interface Design Elements

Briefly describe how the project complies with this measure. See page 6-20 of the Final HCP/NCCP for details.

The proposed sites are not adjacent to HCP/NCCP preserves, likely HCP/NCCP acquisition sites, or existing public space, therefore HCP/NCCP Conservation Measure 1.9 does not apply to the eBART Phase 1 project.

For Rural Infrastructure Projects

Rural infrastructure projects provide infrastructure that supports urban development within the urban development area. Such projects are divided into three categories: transportation projects, flood protection projects, and utility projects. Most rural road projects covered by the Plan will be led by Contra Costa County. All flood protection projects covered by the Plan will be led by the County Flood Control District. Utility projects will likely be led by the private companies that own the utility lines. A complete discussion of rural infrastructure projects is presented in Section 2.3.2 of the Final HCP/NCCP beginning on page 2-18.

HCP/NCCP Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance

Briefly describe how the project complies with this measure. See page 6-25 of the Final HCP/NCCP for details.

N/A

HCP/NCCP Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance

Briefly describe how the project complies with this measure. See page 6-26 of the Final HCP/NCCP for details.

N/A

HCP/NCCP Conservation Measure 1.14. Design Requirements for Covered Roads outside the Urban Development Area

Briefly describe how the project complies with this measure. See page 6-27 of the Final HCP/NCCP for details.

N/A

V. Mitigation Measures

Complete and Attach Exhibit 1 Fee Calculator for Permanent and Temporary Impacts.

- Briefly describe the amount of fees to be paid and when.
- See Section 9.3.1 of the HCP/NCCP for details. If land is to be dedicated in lieu of fees or if restoration or creation of jurisdictional wetlands or waters is to be performed in lieu of fees, summarize these actions here and attach written evidence that the Conservancy has approved these actions in lieu of fees.

Based on Exhibit 1 Fee Calculator Worksheets for Permanent and Temporary Impacts the preliminary fee total is \$13,950.43. The breakdown of the fee is as follows. The 0.3 acres Canal Road Ancillary Building Site total is \$3,219.33, the 3.5 acres that would be temporarily disturbed from construction material storage and parking within the Bailey Road site total \$7,511.77 (two years of use, plus one year for recovery), and the contribution to recovery fee is \$3,219.33. BART would pay the total amount (\$13,950.43) within 30 days of receiving a total fee amount and appropriate invoice from the Conservancy.

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Bay Area Rapid Transit District

Project Name: eBART Phase I

APN (s): N/A

Date: March 12, 2010

Jurisdiction: Participating Special Entity

DEVELOPMENT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

Acreeage of land to be permanently disturbed (from Table 1)*

	Full Development Fee		Fee per Acre (subject to change on 3/15/10)	=	
Fee Zone 1	0.30	x	\$10,731.11	=	\$3,219.33
Fee Zone 2		x	\$21,462.21	=	\$0.00
Fee Zone 3		x	\$5,366.00	=	\$0.00
Development Fee Total					\$3,219.33

WETLAND MITIGATION FEE

	Acreeage of wetland		Fee per Acre (subject to change on 3/15/10)	=	
Riparian woodland / scrub		x	\$61,980.77	=	\$0.00
Perennial Wetland		x	\$84,815.80	=	\$0.00
Seasonal Wetland		x	\$183,767.56	=	\$0.00
Alkali Wetland		x	\$173,981.12	=	\$0.00
Ponds		x	\$92,427.47	=	\$0.00
Aquatic (open water)		x	\$46,757.43	=	\$0.00
Slough / Channel		x	\$105,476.05	=	\$0.00

Linear Feet

<u>Streams</u>					
Streams 25 Feet wide or less (Fee is per Linear Foot)		x	\$505.31	=	\$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)		x	\$761.17	=	\$0.00

Wetland Mitigation Fee Total **\$0.00**

FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee _____

Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments _____

Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant _____

Reduction Total **\$0.00**

CALCULATE TOTAL FEE FOR PERMANENT IMPACTS AND CONTRIBUTION TO RECOVERY

Development Fee Total	\$3,219.33
Wetland Mitigation Fee Total +	\$0.00
Fee Subtotal	\$3,219.33
Contribution to Recovery	\$3,219.33

TOTAL AMOUNT TO BE PAID* **\$6,438.66**

* This amount does not include the temporary impact fee. See Exhibit 2 for temporary impact fee.

Exhibit 2: TEMPORARY IMPACT FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Bay Area Rapid Transit District

Project Name: eBART Phase I

APN (s): 097160045, 088171037, and 0.4 acre portion within 088171032.

Date: 3/12/2010

Jurisdiction:

Participating Especial Entity

TEMPORARY IMPACT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

	Acreage of land to be temporarily disturbed (from Table 1)*		Years of Disturbance (2 years is the minimum for ground-disturbing)		Fee per Acre (subject to change on 3/15/10)	
Fee Zone 1		X		/30	x \$10,731	= \$0.00
Fee Zone 2	3.500	X	3	/30	x \$21,462.21	= \$7,511.77
Fee Zone 3		X		/30	x \$5,366	= \$0.00
Temporary Impact Fee Total						\$7,511.77

TEMP WETLAND MITIGATION FEE

	Acreage of wetland	Yrs. Of Disturbance		Fee per Acre (subject to change on 3/15/10)	
Riparian woodland / scrub		5.00	x	\$61,969.00	= \$ -
Perennial Wetland		2.00	x	\$84,799.00	= \$ -
Seasonal Wetland		2.00	x	\$183,731.00	= \$ -
Alkali Wetland		2.00	x	\$173,947.00	= \$ -
Ponds		2.00	x	\$92,409.00	= \$ -
Aquatic (open water)		2.00	x	\$46,748.00	= \$ -
Slough / Channel		2.00	x	\$105,455.00	= \$ -

	Linear Feet		Fee per Acre (subject to change on 3/15/10)	
Streams				
Streams 25 Feet wide or less (Fee is per Linear Foot)	0.00	2.00	x	\$505.00 = \$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)		2.00	x	\$761.00 = \$0.00
Wetland Mitigation Fee Total				\$ -

FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee	
Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments	
Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant	
Reduction Total	\$0.00

CALCULATE FINAL TEMP IMPACT FEE

Development Fee Total	\$7,511.77
Wetland Mitigation Fee Total +	\$0.00
Fee Subtotal	\$7,511.77
Reduction Total -	\$0.00
TOTAL FEE TO BE PAID	\$7,511.77

* City/County Planning Staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Agreement with California Department of Transportation to Extend Take Coverage

RECOMMENDATION

AUTHORIZE staff to execute a Participating Special Entity Agreement with the California Department of Transportation (Caltrans) to extend take coverage for the CC4 Median Buffer and Shoulder Widening Project.

DISCUSSION

As part of the CC4 Median Buffer and Shoulder Widening Project (project), in an effort to improve traffic safety, Caltrans will install standard shoulders and a median buffer zone on State Route 4 (SR 4) from Marsh Creek Road to the San Joaquin County line. On SR-4 from Marsh Creek Road to Byron Highway, a new 12-foot lane will be added along the westbound direction to improve traffic operations at the Byron Highway intersection. A median buffer zone between the westbound and eastbound lanes will be installed. No median buffer zone is proposed between limits of Discovery Bay eastward to 0.2 mile west of the San Joaquin county line. Between Marsh Creek Road and 0.2 mile west of San Joaquin county line, the existing four-foot nonstandard outside shoulders will be upgraded to Caltrans eight-foot standard shoulders. See Figure 1 and the Project Description in the Application and Planning Survey Report for more information on the Project and its location.

The proposed project is within habitat suitable for several species covered by the HCP/NCCP. Caltrans has requested take authorization for this project pursuant to the HCP/NCCP from the Conservancy as a Participating Special Entity. Chapter 8.4 of the East Contra Costa County Habitat Conservation / Natural Community Conservation Plan (HCP/NCCP) provides that entities with projects not subject to the land use authority of one of the land use agencies participating in the HCP/NCCP may apply to the Conservancy for take coverage. Caltrans is an agency of the State of California and it is not subject to the land use authority of any local agency. Therefore, in order to receive permit coverage under the HCP/NCCP, the Conservancy and Caltrans must enter into an agreement obligating compliance with the applicable terms and conditions of the Implementing Agreement, the HCP/NCCP, and the state and federal permits. The agreement must describe and bind Caltrans to perform all avoidance, minimization, and mitigation measures applicable to the project.

Conservancy staff has worked with CalTrans to prepare a draft PSE Agreement for this Project (attached). Attached as Exhibit 1 to the Agreement is the completed Application and Planning Survey Report for the Project (Report) which was primarily prepared by Caltrans. The Report documents the results of the planning-level surveys conducted at the locations where permanent and temporary impacts will occur and describes the specific pre-construction surveys, avoidance, and mitigation measures that are required in order for the project to be covered. The Report contains project vicinity map, detailed maps showing land cover and activities at impact locations, and the Fee Calculator Worksheets, and these items are included in the printed version of the Report included in the Board packet. The Report also includes the detailed site plan maps and several appendices, and these items are only available in the complete version of the Report available on CD-ROM.

Key provisions of the Agreement:

- The Project impacts are reflected in the table below:

Land Cover Type	Impact Type	
	Permanent	Temporary
Cropland	1.82	5.88
Ruderal	5.11	8.56
Riparian Scrub	0.05	0.25
Slough/Channel	0.07	0.14
Wetland	0.29	0.01
Streams (feet)	6	
Giant Garter Snake Suitable Habitat	4.78	
Urban (No Fees)	2.86	35.09

- The agreement provides that Caltrans will reimburse the Conservancy for staff costs associated with processing Caltrans request for take coverage, up to a maximum reimbursement of \$25,000.
- As set forth in the Agreement (page 6-7), Caltrans will pay the Conservancy \$387,635.62 which amount includes all HCP/NCCP mitigation fees necessary for the Project as well as a contribution to recovery of endangered species. The overall payment amount includes the following components:

CALTRANS FEE SUMMARY	
Development fees:	\$78,766.31
Wetland mitigation fees:	\$68,340.95
Temporary impact fees:	\$13,228.36
Giant Garter Snake Compensation Fund:	\$167,300.00
Contribution to recovery of endangered species:	\$60,000.00
TOTAL FEES	\$387,635.62

Maximum Administrative Costs	\$25,000.00
MAXIMUM AMOUNT TO BE PAID	\$412,635.62

- Fees must be paid before work commences. Caltrans anticipates starting work in March 2011 and completed in March 2013. HCP/NCCP fee amounts went down slightly on March 15, 2010, but Caltrans has agreed not to request a fee adjustment in 2010.
- Staff proposes a contribution to recovery of \$60,000. As set forth in the HCP, the Conservancy may charge PSEs a contribution to recovery to help the Conservancy cover certain costs associated with the HCP that are not included in HCP mitigation fees (for example, the costs of preserve management beyond the permit term, the costs of exceeding mitigation requirements and contributing to recovery of covered species, etc.). For the PG&E CCLP project, PG&E agreed to pay a \$50,000 contribution to recovery. All impacts in the PG&E project were temporary impacts and did not count against Conservancy take limits. Given the magnitude of the Caltrans project, the proposed extent of permanent impacts, and the proposal to charge a Giant Garter Snake Mitigation fee in addition to the Development Fee (see below), staff proposes a \$60,000 contribution to recovery.
- In order to mitigate for impacts to giant garter snake (GGS), Caltrans will pay \$167,300.00 (\$35,000 per acre of impact to suitable GGS habitat) to the Conservancy to be used to mitigate impacts to GGS. The HCP contains specific and unique requirements for GGS, providing that conservation for this species must be closely tied to impacts, and the fee is needed to assist the Conservancy in meeting these requirements.
- The Agreement requires a number of detailed measures to avoid impacts to several covered species including San Joaquin kit fox, Western burrowing owl, giant garter snake, California tiger salamander, California red-legged frog, Swainson’s hawk, and Golden Eagle. In accordance with avoidance and minimization measures for Giant Garter Snake (GGS), Caltrans delineated a buffer of 200 feet from suitable GGS habitat in which construction activity that disturbs habitat will be limited to the period between May 1 to September 30th. If activities are necessary in GGS habitat between October 1 and April 30, Caltrans shall contact the USFWS Sacramento Field Office to determine if additional measures are required.
- All waters and wetlands to be avoided by project activities will be protected by installing environmentally sensitive area (ESA) temporary fencing. Figure 3a Land Cover Maps of the Report show the location of ESA fencing throughout the project area.
- All areas not protected by temporary fencing will be charged a temporary impact fee.

Next steps: If the Conservancy Board authorizes staff to sign the PSE Agreement, key next steps in granting take coverage would be as follows:

- Wildlife agencies review the agreement and are asked to concur with the Conservancy’s determination that the agreement imposes all applicable conditions of the HCP/NCCP onto the project. Note: Participating Special Entity agreements, unlike the granting of take authorization by a participating City or County, requires wildlife agency concurrence.

- Caltrans pays all required fees.
- The Conservancy issues Caltrans a Certificate of Inclusion. Take coverage would then be in effect, subject to the terms of the PSE Agreement.
- Caltrans conducts pre-construction surveys to determine which species specific avoidance and minimization measures.
- Before implementing covered activity, Caltrans will develop and submit a construction monitoring plan to the Conservancy.
- Caltrans constructs the project subject to the terms of the PSE Agreement.

Attachments:

- PSE Agreement, including:
 - Main body of agreement
 - Exhibit 1: Planning Survey Report
 - Main body of planning survey report
 - Project Vicinity Map, Land Cover Maps, GGS Habitat Maps
 - Fee Calculator (Exhibit 1 and 2 within planning survey report)
 - Note: Figure 2 and Figure 4 site plan maps and appendices to the application are available on CD-ROM

**AGREEMENT IMPLEMENTING THE EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY
CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION**

BETWEEN

**EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, Implementing
Entity, and CALIFORNIA DEPARTMENT OF TRANSPORTATION, a Participating
Special Entity**

1.0 PARTIES

This Agreement is made and entered into by the **East Contra Costa County Habitat Conservancy** (“Conservancy”) and **California Department of Transportation**, (“Participating Special Entity” or “PSE”) as of the Effective Date.

2.0 RECITALS

The Parties have entered into this Agreement in consideration of the following facts:

- 2.1** The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP,” or “Plan”) is intended to provide a comprehensive framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for certain projects that would cause impacts on endangered and threatened species. The primary policy priority of the Plan is to provide comprehensive species, wetlands, and ecosystem conservation and contribute to recovery of endangered and threatened species within East Contra Costa County while balancing open space, habitat, agriculture, and urban development. To that end, the Plan describes how to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on Covered Species and their habitats while allowing for certain development and other activities in selected regions of the County and the Cities of Pittsburg, Clayton, Oakley, and Brentwood.
- 2.2** The Conservancy is a joint powers authority formed by its members, the County of Contra Costa (“County”), the City of Pittsburg (“Pittsburg”), the City of Clayton (“Clayton”), the City of Oakley (“Oakley”) and the City of Brentwood (“Brentwood”), to implement the HCP/NCCP.
- 2.3** The HCP/NCCP covers approximately one-third of the County, or 174,082 acres, all in East Contra Costa County, in which impacts from certain development and other activities are evaluated, and in which conservation will occur.
- 2.4** The area covered by the HCP/NCCP has been determined to provide, or potentially provide, habitat for twenty-eight (28) species that are listed as endangered or threatened, that could in the future be listed as endangered

or threatened, or that have some other special status under federal or state laws.

- 2.5 The Conservancy has received authorization from the United States Fish and Wildlife Service (“USFWS”) under incidental take permit TE 160958-0, and the California Department of Fish and Game (“CDFG”), under incidental take permit 2835-2007-01-03, for the Take of the twenty-eight (28) special-status species and certain other species, as take is defined respectively under federal and state law, while carrying out certain development and other activities.
- 2.6 The Conservancy may enter into agreements with participating special entities that allow certain activities of theirs to be covered by the Federal Permit and the State Permit, subject to the conditions in the Implementing Agreement (“IA”), the HCP/NCCP and the Permits.
- 2.7 PSE is responsible for the State Route 4 Median Buffer and Shoulder Widening Project which seeks an extension of the Conservancy’s permit coverage for improving safety along the corridor by installing standard shoulders and a median buffer zone on State Route 4 from Marsh Creek Road to the San Joaquin county line.
- 2.8 The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference

3.0 DEFINITIONS

The following terms as used in this Agreement will have the meanings set forth below. Terms specifically defined in FESA, CESA or NCCPA or the regulations adopted by USFWS and DFG under those statutes shall have the same meaning when used in this Agreement. Definitions used in this Agreement may elaborate on, but are not intended to conflict with, such statutory or regulatory definitions.

- 3.1 **“Agreement”** means this Agreement, which incorporates the IA, the HCP/NCCP, the Permits, and the Application by reference.
- 3.2 **“Application”** means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.
- 3.3 **“Authorized Take”** means the extent of incidental Take of Covered Species authorized by the USFWS in the Federal Permit issued to the Conservancy pursuant to Section 10(a)(1)(B) of FESA, and the extent of Take of Covered Species authorized by CDFG in the State Permit issued to the Conservancy pursuant to California Fish and Game Code section 2835.

- 3.4 “**CDFG**” means the California Department of Fish and Game, a department of the California Resources Agency.
- 3.5 “**CESA**” means the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.6 “**Changed Circumstances**” means changes in circumstances affecting a Covered Species or the geographic area covered by the HCP/NCCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the HCP/NCCP. Changed Circumstances and planned responses to Changed Circumstances are more particularly defined in Section 12.2 of the IA and Chapter 10.2.1 of the HCP/NCCP. Changed Circumstances do not include Unforeseen Circumstances.
- 3.7 “**Covered Activities**” means those land uses and conservation and other activities described in Chapter 2.3 of the HCP/NCCP to be carried out by the Conservancy or its agents that may result in Authorized Take of Covered Species during the term of the HCP/NCCP, and that are otherwise lawful.
- 3.8 “**Covered Species**” means the species, listed and non-listed, whose conservation and management are provided for by the HCP/NCCP and for which limited Take is authorized by the Wildlife Agencies pursuant to the Permits. The Take of Fully Protected Species is not allowed. The Take of extremely rare plants that are Covered Species is allowed only as described in Section 6.3 and the IA.
- 3.9 “**Effective Date**” means the date when this Agreement is fully executed.
- 3.10 “**Federal Listed Species**” means the Covered Species which are listed as threatened or endangered species under FESA as of the Effective Date, and the Covered Species which are listed as threatened or endangered pursuant to FESA during the term of the HCP/NCCP as of the date of such listing.
- 3.11 “**Federal Permit**” means the federal incidental Take permit issued by USFWS to the Conservancy and other local agencies pursuant to Section 10(a)(1)(B) of FESA (permit number TE 160958-0), as it may be amended from time to time.
- 3.12 “**FESA**” means the Federal Endangered Species Act of 1973, as amended (16 U.S.C § 1531 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.13 “**Fully Protected Species**” means any species identified in California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.
- 3.14 “**HCP/NCCP**” or “**Plan**” means the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.
- 3.15 “**Implementing Agreement**” or “**IA**” means that document attached as Appendix B to the HCP/PCCP.
- 3.16 “**Jurisdictional Wetlands and Waters**” means State and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under

section 404 of the Clean Water Act or, from the State Water Resources Control Boards under either section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFG under section 1602 of the Fish and Game Code, as further explained in Chapter 1.3.5 of the HCP/NCCP.

- 3.17 **“Listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is listed as endangered or threatened under FESA or CESA.
- 3.18 **“Non-listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under FESA or CESA.
- 3.19 **“Party”** or **“Parties”** means any or all of the signatories to this Agreement.
- 3.20 **“Permit Area”** means the area within the Plan Area where the Conservancy has received authorization from the Wildlife Agencies for the Authorized Take of Covered Species while carrying out Covered Activities.
- 3.21 **“Permits”** means the Federal Permit and the State Permit.
- 3.22 **“Plan Area”** means the geographic area analyzed in the HCP/NCCP, located in the eastern portion of Contra Costa County, as depicted in Figure 1-1 of the HCP/NCCP. The Plan Area is further described in detail in Chapter 1.2.1 of the HCP/NCCP. The Plan Area is also referred to as the “Inventory Area” in the HCP/NCCP.
- 3.23 **“Preserve System”** means the land acquired and dedicated in perpetuity through either a fee interest or conservation easement intended to meet the preservation, conservation, enhancement and restoration objectives of the HCP/NCCP.
- 3.24 **“Proposed Activities”** means the activities described in Exhibit 1 that will be covered by the extension of the Conservancy’s take authorization.
- 3.25 **“State Permit”** means the state Take permit issued to the Conservancy and other local agencies pursuant to Section 2835 of the California Fish and Game Code (permit number 2835-2007-01-03), as it may be amended from time to time.
- 3.26 **“Take”** has the same meaning provided by FESA and its implementing regulations with regard to activities subject to FESA, and also has the same meaning provided in the California Fish and Game Code with regard to activities subject to CESA and NCCPA.
- 3.27 **“Unforeseen Circumstances”** under the Federal Permit means changes in circumstances affecting a Covered Species or geographic area covered by the HCP/NCCP that could not reasonably have been anticipated by the Plan developers and USFWS at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species. **“Unforeseen Circumstances”** under the State Permit means changes affecting one or more species, habitat, natural community, or the geographic area covered by the Plan that could not reasonably have been anticipated at the time of Plan development, and that

result in a substantial adverse change in the status of one or more Covered Species.

3.28 “USFWS” means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.

3.29 “Wildlife Agencies” means USFWS and CDFG.

4.0 **PURPOSES**

This Agreement defines the Parties’ roles and responsibilities and provides a common understanding of actions that will be undertaken to avoid, minimize and mitigate the effects on the Covered Species caused by the Proposed Activities, and to provide for the conservation of the Covered Species within the Plan Area. The purposes of this Agreement are to ensure implementation of each of the terms and conditions of this Agreement, and the relevant terms of the IA, the HCP/NCCP, and the Permits, and to describe remedies and recourse should either Party fail to perform its obligations as set forth in this Agreement.

5.0 **AVOIDANCE, MINIMIZATION AND MITIGATION OF IMPACTS**

5.1 **General Framework**

As required by FESA and NCCPA, the HCP/NCCP includes measures to avoid and minimize take of Covered Species and to conserve natural communities and Covered Species at the landscape-, habitat- and species-level. Chapter 6 of the HCP/NCCP provides further instructions to determine which avoidance and minimization measures are applicable to particular Covered Activities. PSE shall implement all applicable avoidance and minimization measures as required by the HCP/NCCP, including but not limited to those identified in Chapter 6, as described in the Application and this Agreement.

5.2 **Surveys and Avoidance Measures**

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report is contained within the Application, which describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Proposed Activities and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

5.3 No Take of Extremely Rare Plants or Fully Protected Species

Nothing in this Agreement, the HCP/NCCP or the Permits shall be construed to allow the Take of extremely rare plant species listed in Table 6-5 of the HCP/NCCP (“No-Take Plant Population”) or any Fully Protected Species under California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515. PSE shall avoid Take of these species.

5.3.1 Golden Eagle

The Permits do not authorize Take of the golden eagle and PSE shall avoid Take of any golden eagle. The avoidance measures set forth in the HCP/PCCP, including but not limited to Conservation Measure 1.11, should be adequate to prevent Take of golden eagles, but the Conservancy shall notify PSE in writing of any additional or different conservation measures that are designed to avoid Take of these species and that apply to PSE. PSE shall implement all such avoidance measures to avoid Take of golden eagles.

5.4 Design Requirements for Covered Roads Outside the Urban Limit Line

The Application includes, and PSE shall implement, the siting, design, and construction requirements for the CC4 Median Buffer and Shoulder Widening Project to comply with Conservation Measure 1.14 and Table 6-6 in the HCP/NCCP, and other applicable requirements of the HCP/NCCP, as determined by the Conservancy based on PSE’s Application.

5.5 Delineation of Jurisdictional Wetlands and Waters

Jurisdictional Wetlands or Waters are present on the site of the Proposed Activities, and PSE has provided to the Conservancy a jurisdictional delineation in accordance with Chapter 6.3.1 of the HCP/NCCP. PSE shall pay the Wetland Mitigation Fee based on the delineation, as specified in the Application.

5.6 Fees and Dedications

As set forth in the Application, PSE agrees to pay the Conservancy **\$387,635.62** which amount includes all HCP/NCCP mitigation fees necessary for the Proposed Activities as well as a contribution to recovery of endangered species. The overall payment amount is based on a summation of individual HCP/NCCP mitigation fees and a contribution to recovery as follows:

Development fees: \$78,766.31

Wetland mitigation fees: \$68,340.95

Temporary impact fees: \$13,228.36

Giant Garter Snake Compensation Fund: \$167,300.00

Contribution to recovery of endangered species: \$60,000.00

All fees and the contribution to recovery must be paid in full before any ground-disturbance associated with the Proposed Activities occurs. If any fee or the contribution toward recovery is not paid in full during the current calendar year (2010), the amount of all fees and the contribution to recovery will be increased or decreased each following year, beginning in 2011, until such time as all fees and the contribution to recovery are paid in full. All fees and the contribution to recovery will be increased or decreased according to the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. The contribution to recovery will be adjusted according to the formula set forth in Chapter 9.3.1 for the wetland mitigation fee. Fee and contribution to recovery amounts will be adjusted annually on March 15, beginning in 2011. If PSE pays all fees and the contribution to recovery during the period from January 1 to March 14 in the year 2011 all fee and contribution to recovery amounts will be subject to the March 15 fee adjustments unless construction of the Proposed Activities has commenced by March 14. If payment is made during this period and construction does not commence before March 15, PSE will be required to submit an additional payment for any increases to fees or the contribution to recovery and will be entitled to a refund without interest for any decreases to fees or the contribution to recovery.

6.0 TAKE AUTHORIZATION

6.1 Extension of Take Authorization to PSE

As provided in Chapter 8.4 of the HCP/NCCP, after execution of this Agreement, payment of fees or dedication of land as set forth in Section 5.6, and receipt of the Wildlife Agencies' written concurrence that the Proposed Activity complies with the HCP/NCCP, the Permits and the IA, the Conservancy shall issue a Certificate of Inclusion to PSE that specifically describes the Authorized Take and required conservation measures and extends Take authorization under the Permits to PSE. PSE is ultimately responsible for compliance with all applicable terms and conditions of this Agreement, the IA, the HCP/NCCP and the Permits.

6.2 Duration of Take Authorization

Once the Take authorization has been extended to the Proposed Activities, it shall remain in effect for a period of 15 years, unless and until the Permits are revoked by USFWS or CDFG, in which case the Take authorization may also be suspended or terminated.

7.0 RIGHTS AND OBLIGATIONS OF PSE

7.1 Rights

Upon the Conservancy's issuance of a Certificate of Inclusion to PSE, PSE may Take the Covered Species while carrying out the Proposed Activities in the Permit Area, as further authorized by and subject to the conditions of this Agreement, the IA, the HCP/NCCP, and the Permits. The authority issued to PSE applies to all of the elected officials,

officers, directors, employees, agents, subsidiaries, contractors, and subcontractors, and their officers, directors, employees and agents who engage in any Proposed Activity. PSE shall periodically conduct an educational program to fully inform all such persons and entities of the terms and conditions of the Permits, and PSE shall be responsible for supervising their compliance with those terms and conditions. All contracts between PSE and such persons and entities shall require their compliance with the Permits.

7.2 General Obligations

The PSE will fully and faithfully perform all obligations assigned to it under this Agreement, the IA, the HCP/NCCP, the Permits, including but not limited to the obligations assigned in the following chapters of the HCP/NCCP: Chapter 6.0 (Conditions on Covered Activities), Chapter 8.4 (Participating Special Entities), and Chapter 9.0 (Funding). PSE shall ensure that all mitigation, conservation, monitoring, reporting and adaptive management measures required of it are adequately funded throughout the term of this Agreement, and that monitoring, reporting and adaptive management measures are adequately funded in perpetuity as further described in the Application. PSE will promptly notify the Conservancy of any material change in its financial ability to fulfill its obligations under this Agreement.

7.3 Obligations In The Event of Suspension or Revocation

In the event that USFWS and/or CDFG suspend or revoke the Permits pursuant to Sections 19.0 and 21.0 of the IA, PSE will remain obligated to fulfill its mitigation, enforcement, management, and monitoring obligations, and its other HCP/NCCP obligations, in accordance with this Agreement and applicable statutory and regulatory requirements for all Proposed Activities implemented prior to the suspension or revocation.

7.4 Interim Obligations upon a Finding of Unforeseen Circumstances

If the Wildlife Agencies make a finding of Unforeseen Circumstances with regard to a Federal Listed Covered Species, during the period necessary to determine the nature and location of additional or modified mitigation, PSE will avoid contributing to an appreciable reduction in the likelihood of the survival and recovery of the affected species. As described below at Section 15.2.2 and Section 15.3.2, the Wildlife Agencies shall be responsible for implementing such additional measures or modifications, unless PSE consents to do so.

7.5 Obligations In The Event Of Changed Circumstances

Changed Circumstances, as described in 50 Code of Federal Regulations section 17.22(b)(5)(i), are adequately addressed in Chapter 7 and Chapter 10 of the HCP/NCCP, and PSE shall implement any measures for such circumstances as called for in the HCP/NCCP, as described in Section 12.2 of this Agreement.

7.6 Obligation to Compensate Conservancy for Expenses Incurred

PSE shall compensate the Conservancy for its direct costs associated with this Agreement, including but not limited to, staff, consultant and legal costs incurred as a result of the review of the Application, drafting and negotiating this Agreement, monitoring and enforcement of this Agreement, and meetings and communications with PSE (collectively, Conservancy's "Administrative Costs"). Conservancy's Administrative Costs shall not exceed \$25,000. Conservancy shall provide PSE with invoices detailing its Administrative Costs monthly or quarterly, at Conservancy's discretion. PSE shall remit payment of each invoice within thirty (30) days of receiving it.

8.0 REMEDIES AND ENFORCEMENT

If PSE fails to comply with the terms of this Agreement, the IA, the HCP/NCCP, or the Permits, the Conservancy may withdraw the Certificate of Inclusion and terminate any Take authorization extended to PSE. The Conservancy shall also have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the IA, the HCP/NCCP and the Permits, and to seek redress and compensation for any breach or violation thereof. PSE shall defend, indemnify, protect, and hold harmless the Conservancy from and against any claim, loss, damage, cost, expense, or liability directly or indirectly arising out of or resulting from (i) PSE's breach of this Agreement or the inaccuracy of any representation or warranty made by PSE in this Agreement, or (ii) PSE's, performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement, including without limitation claims caused by or arising out of the negligence, recklessness, or intentional misconduct of any representative, employee, or agent of PSE. The Parties acknowledge that the Covered Species are unique and that their loss as species would be irreparable and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

9.0 FORCE MAJEURE

In the event that a Party is wholly or partially prevented from performing obligations under this Agreement because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of Party ("Force Majeure"), including, but not limited to, acts of God, labor disputes, sudden actions of the elements not identified as Changed Circumstances, or actions of non-participating federal or state agencies or local jurisdictions, the Party shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, and such failure to perform shall not be considered a material violation or breach, provided that nothing in this section shall be deemed to authorize either Party to violate FESA, CESA or NCCPA, and provided further that:

- The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;
- Within seven (7) days after the occurrence of the Force Majeure, the Party invoking this section shall give the Conservancy written notice describing the particulars of the occurrence;
- The Party shall use best efforts to remedy its inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Party is contrary to its interest); and
- When the Party is able to resume performance of their obligations, it shall give the other Party written notice to that effect.

10.0 MISCELLANEOUS PROVISIONS

10.1 Calendar Days

Throughout this Agreement and the HCP/NCCP, the use of the term “day” or “days” means calendar days, unless otherwise specified.

10.2 Notices

Any notice permitted or required by this Agreement shall be in writing, and delivered personally, by overnight mail, or by United States mail, certified and postage prepaid, return receipt requested. Notices may be delivered by facsimile or electronic mail, provided they are also delivered by one of the means listed above. Delivery shall be to the name and address of the individual responsible for each of the Parties, as follows:

John Kopchik
 East Contra Costa County Habitat Conservancy
 c/o Contra Costa County Department of Conservation and Development
 651 Pine Street, North Wing, 4th Floor
 Martinez, CA 94553
 Email: jkopc@cd.cccounty.us
 Phone: 925-335-1227

Christopher States
 California Department of Transportation, District 4
 111 Grand Avenue, P.O. Box 23660, M.S. 8E
 Oakland, Ca 94623-0660
 Email: christopher_states@dot.ca.gov
 Phone: 510-286-7185

Notices shall be transmitted so that they are received within the specified deadlines. Notices delivered personally shall be deemed received on the date they are delivered. Notices delivered via overnight delivery shall be deemed received on the next business day after deposit with the overnight mail delivery service. Notice delivered via certified

mail, return receipt requested, shall be deemed received as of the date on the return receipt or five (5) days after deposit in the United States mail, whichever is sooner. Notices delivered by facsimile or other electronic means shall be deemed received on the date they are received.

10.3 Entire Agreement

This Agreement, together with the IA, the HCP/NCCP and the Permits, constitutes the entire agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

10.4 Amendment

This Agreement may only be amended with the written consent of both Parties.

10.5 Attorneys' Fees

If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, the Conservancy shall be able to recover its attorneys' fees and costs if it prevails.

10.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

10.7 Duplicate Originals

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

10.8 Relationship to the FESA, CESA, NCCPA and Other Authorities

The terms of this Agreement are consistent with and shall be governed by and construed in accordance with FESA, CESA, NCCPA and other applicable state and federal law.

10.9 No Third Party Beneficiaries

Without limiting the applicability of rights granted to the public pursuant to FESA, CESA, NCCPA or other applicable law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary thereof, nor

shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

10.10 References to Regulations

Any reference in this Agreement, the IA, the HCP/NCCP, or the Permits to any regulation or rule of the Wildlife Agencies shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

10.11 Applicable Laws

All activities undertaken pursuant to this Agreement, the IA, the HCP/NCCP, or the Permits must be in compliance with all applicable local, state and federal laws and regulations.

10.12 Severability

In the event one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement.

10.13 Due Authorization

Each Party represents and warrants that (1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action, (2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable it to enter into and comply with the terms of this Agreement, and (3) the person executing this Agreement on behalf of each Party has the authority to bind that Party.

10.14 No Assignment

The Parties shall not assign their rights or obligations under this Agreement, the Permits, or the HCP/NCCP to any other individual or entity.

10.15 Headings

Headings are using in this Agreement for convenience only and do not affect or define the Agreement's terms and conditions.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this
Implementing Agreement to be in effect as of the date last signed below.

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: _____
John Kopchik, Executive Director

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: _____
Christopher States, California Department of Transportation



East Contra Costa County
Habitat Conservation Plan
Natural Community
Conservation Plan

City of Brentwood
City of Clayton
City of Oakley
City of Pittsburg
Contra Costa County
ECCC Habitat Conservancy

Template prepared by the
ECCC Habitat Conservancy

651 Pine Street, North Wing, 4th Floor
Martinez, CA 94533-0095
Phone: 925/335-1290
Fax: 925/335-1299
www.cocohcp.org

Application Form and Planning Survey Report to Comply with and Receive Permit Coverage under the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan

Project Applicant Information:

Project Name: CC 4 Median Buffer and Shoulder Widening Project
Project Applicant's Company/Organization: California Department of Transportation
Contact's Name: Samira Abubekr
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Project Description:

Lead Planner: Howell Chan
Project Location: State Route 4 from Marsh Creek Road to San Joaquin county line.
Project APN(s) #: N/A (Right of Way)
Size of Parcel(s): N/A
Brief Project Description: Improve safety by installing standard shoulders and a median buffer zone on State Route 4 from Marsh Creek Road to the San Joaquin county line.
Reviewed by: Krystal Hinojosa and John Kopchik, East Contra Costa County Habitat Conservancy

Biologist Information:

Biological/Environmental Firm: Caltrans
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Oakland, CA 94623-0660

East Contra Costa County HCP/NCCP Planning Survey Report for CC 4 Median Buffer and Shoulder Widening

I. Project Overview

Project proponent: California Department of Transportation (Caltrans)

Project Name: CC 4 Median Buffer and Shoulder Widening Project

Application Submittal Date: March 11, 2010

Jurisdiction: Contra Costa County Participating Special Entity
 City of Oakley
 City of Pittsburg
 City of Clayton
 City of Brentwood

**Check appropriate
Development Fee Zone(s):** Zone I
 Zone II
 Zone III

See Figure 9-1 of the Final HCP/NCCP for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction or at www.cocohcp.org.

**Acreage of land to be
permanently disturbed¹:** 7.34 acres

**Acreage of land to be
temporarily disturbed²:** 15.88 acres

**Acreage of Developed land
cover to be disturbed³:** 2.86 acres of permanent and 35.09 acres of temporary

¹ *Participating Special Entities* are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, water districts, irrigation districts, transportation agencies, local park districts, geologic hazard abatement districts, or other utilities or special districts that own land or provide public services.

¹ *Acreage of land permanently disturbed* is broadly defined in the HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development fee will apply. The development fees were calculated with the assumption that all undeveloped areas within a parcel (e.g., fragments of undisturbed open space within a residential development) would be charged a fee; the fee per acre would have been higher had this assumption not been made. See Chapter 9 of the HCP/NCCP for details.

² *Acreage of land temporarily disturbed* is broadly defined in the HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).

³ *Acreage of Developed land cover to be disturbed* is separated into six subtypes: urban, aqueduct, nonnative woodland, turf, wind turbine, and landfill. Please refer to Chapter 3 of the HCP/NCCP for detailed description.

The California Department of Transportation (Caltrans) proposes a safety project to widen State Route 4 (SR-4) from Marsh Creek Road at post mile (PM) 43.9 to the Contra Costa/San Joaquin county line at PM 48.3. The project is located within two U.S. Geological Survey (USGS) 7.5 Quadrangles, Brentwood (Township 1N, Range 3E, 37°52.5'N/121°38.5'W) and Woodward Island (Township 1N, Range 3E, 37°53.79'N/121°36.5'W). The region is characterized primarily by suburban residential developments, areas of open space, and agricultural land interspersed with major industrial and oil refinery sites (see, Figure 1. Project Vicinity Map)

Current Conditions

The SR-4 eastern corridor is the only major east/west transportation route through northern Contra Costa County, and is the primary commute and commerce route for the eastern part of the County. The eastern section of SR-4 includes areas that are projected to be among the fastest growing residential areas in the region. In the project limits, SR-4 is generally a standard 12-foot, two-lane, undivided conventional highway through flat terrain.

This project can be divided into three sections. The first section of the project area, from Marsh Creek Road (approximately PM 43.9) to the beginning of the Town of Discovery Bay (approximately PM 44.9), is a two-lane, conventional, undivided highway with existing shoulders of approximately four feet in width. The second section, from approximately PM 44.9 to PM 47.3, is adjacent to the unincorporated community of Discovery Bay. This section was improved in the 1990s. Shoulders in this section meet current Caltrans standards (i.e., eight-foot or wider). It has left turn pockets with some divided roadway, a portion of which has two lanes in each direction and a paved yellow-striped median. The third section, which allows passing on the opposing traffic lane, begins from the eastern edge of Discovery Bay at PM 47.3 to PM 48.1 west of Contra Costa/San Joaquin County Line. This section was built on an embankment raised about eight feet from existing ground level and has no shoulders.

Along the corridor, driveways provide highway access to and from private properties. The intersection of SR-4 and Byron Highway is on a 90-degree curve. There are intersections within the project limits with traffic signals. These signalized intersections are located on SR-4 at Marsh Creek Road, Byron Highway, Bixler Road, and Discovery Bay Boulevard.

Purpose and Need

This segment of SR-4 has experienced many types of collisions that are typical of two-lane highways (i.e., Head-on, sideswipes, rear-end, and hit-object accidents) which caused partial road closures. Residential development in this eastern area of Contra Costa County and in adjacent counties over the years has contributed to the high growth rate in the number of commuters utilizing SR-4, traveling to and from work from adjacent communities. Commercial and agricultural truck traffic has also increased on SR-4.

The purpose of this project is to improve traffic safety in this corridor by installing a buffer zone to separate opposing traffic, and by widening existing paved shoulders to current Caltrans highway standards. Head-on collisions, which are traditionally the most severe type of accident, would be reduced if opposing traffic separated by a buffer zone (paved yellow-striped separation). Standard shoulders will improve traffic safety by providing wider recovery area on the side of the highway for errant vehicles to enter, regain control and avoid hitting object on the side of the road. Standard shoulders also will provide emergency vehicles with an area to use when needed for assistance.

Proposed Project (Proposed Engineering Features)

To improve safety on SR-4, between Marsh Creek Road and 0.2 mile west of the San Joaquin county line, the following improvements are proposed (see, attached Figure 2 Site Plan Map).

12-foot Lane

On SR-4 from Marsh Creek Road to Byron Highway, a new 12-foot lane will be added along the westbound direction to improve traffic operations at the Byron Highway intersection (see, attached Figure 2 Site Plan Map, Sheet 1).

Buffer Zone

A paved, yellow-striped median buffer zone between the westbound and eastbound lanes will be installed. The width will vary from 4 feet to 18 feet on SR-4 from Marsh Creek Road to Byron Highway (see, attached Figure 2 Site Plan Map, Sheet 1) and will be constant 6 feet from Byron Highway to the agricultural canal (see, attached Figure 2 Site Plan Map, Sheets 2–8). No median buffer zone is proposed between limits of Discovery Bay eastward to 0.2 mile west of the San Joaquin county line (see, attached Figure 2 Site Plan Map, Sheets 2–8). The paved buffer zone will be delineated by a double yellow stripe on both sides of SR-4. Rumble strips will be installed at each side of the buffer zone to provide an audible warning to motorists who veer towards the median. Temporary K-rail will be used during construction. However, no permanent K-rail or other concrete barrier will be installed for this project.

Shoulder Widening

Between Marsh Creek Road and 0.2 mile west of San Joaquin county line, the existing four-foot nonstandard outside shoulders will be upgraded to Caltrans eight-foot standard shoulders to provide an area whereby emergency vehicles can pull out when needed for assistance or a recovery area for errant vehicles (see, attached Figure 2 Site Plan Map). As for the median, rumble strips will be installed next to the edge line of the shoulder.

Bridge Widening at Kellogg Creek (“Waters of the U.S.”)

To provide the proposed paved, yellow-striped median buffer zone, this project includes widening the existing Kellogg Creek Bridge by 6 feet on the south side (see, attached Figure 2 Site Plan Map, Sheet 3). This extension will include setting one pile into Kellogg Creek and one pile on the bank of the Creek to match the existing piles. To install the cast-in-steel-shell (CISS) pile into Kellogg Creek, Caltrans will vibrate a steel collar into the Creek using a crane and pile-driving truck to be staged on the existing bridge. Caltrans will dewater the area inside the steel collar and fill the voided area with concrete using a concrete pump delivery truck. New CISS piles will match the existing piles. Dewatering will only occur within the CISS pile. A cofferdam will not be required for work in the Creek. The bridge widening will result in a 0.001 acre of permanent impact to “Waters of the U.S.”. This impact is included in Table 1 as “Slough/Channel” (Kellogg Creek was originally labeled as stream, but after consultation with the Conservancy, it was decided that the best label for such a feature is Slough/Channel). The bridge widening will also result in 0.001 acre of permanent impact to the riparian area (the bank of Kellogg Creek below Ordinary High Water Mark (OHWM)). This impact is included in Table 1 as “Riparian scrub”

Caltrans will install rock slope protection (RSP) between the abutment at the top of slope and the toe of slope, on the south sides of the Creek where widening is taking place. The old RSP will be removed during construction to build the new abutment and to facilitate construction work, and will be replaced with the same RSP on both sides of the Creek. Installing the RSP will temporarily impact 0.018 acres of the banks. This impact is included in Table 1 as “Slough/Channel” (the bank of Kellogg Creek above OHWM).

To avoid and minimize effects to giant garter snake habitat, pile driving within Kellogg Creek will be prohibited October 1 through April 30 (see, attached Figure 3b GGS habitat mapping).

To avoid and minimize effects to delta smelt (DS), pile driving within Kellogg Creek (excluding all areas above OHWM) will be restricted to August 1 through October 15 (see, attached Appendix A USFWS Biological Opinion).

Work in Kellogg Creek will need to be completed in accordance with the GGS construction window as well as the delta smelt construction window. Therefore, work in Kellogg Creek can only occur August 1 through October 1.

Work at the Agricultural Canal (“Waters of the U.S.”)

The project proposes to install a soldier pile wall at the agricultural canal, to accommodate the shoulder widening, replacing a previous proposal to extend the existing culvert (see, attached Figure 2 Site Plan Map, Sheet 6). This work will involve:

1. Clearing and grubbing of the top soil and vegetation behind and near the face of the wall;
2. Drilling cast-in-drilled-holes (CIDHs) at about 8 feet spacing along the wall alignment;
3. Placing and centering the soldier beams (one at a time or every other hole first) inside the CIDHs;
4. For any ground water in the hole, the contractor has the option to pump the water out or use tremie method⁴ to fill the hole with concrete;
5. Fill the hole to the dredge line with minor concrete⁵ and above the dredge line with lean concrete⁶;
6. Excavate in front of the wall and place lagging;
7. Excavate to create key benches and backfill behind the lagging with structural backfill or lightweight materials; and
8. Construct the concrete cap and concrete barrier.

Work at the agricultural canal will result in 0.022 acres of permanent impact and 0.02 acres of temporary impact to the banks of the canal (above OHWM). These impacts are included in Table 1 as “Slough/Channel”.

Utility Poles, Irrigation lines, and Fiber Optic Lines

This project will require utility relocations or protection-in-place of existing utilities located within the clear recovery zone or affected by the project within the project limits. These utilities include electricity transmission poles, telephone poles, and anchor poles,

⁴ In the Tremie Concrete method, concrete is placed below water level through a pipe, the lower end of which is kept immersed in fresh concrete so that the rising concrete from the bottom displaces the water without washing out the cement content.

⁵ Minor Concrete is a standard concrete mix, spread and compacted as specified in Caltrans Standard Specifications Section 90-10.

⁶ Lean concrete is a plain concrete with a large ratio aggregate to cement than structural concrete. It is used for filling and not structural duties.

which will be relocated within the R/W (see, attached Figure 2 Site Plan Map, Sheets 1 and 6). The electric pole relocation will result in 0.001 acres of permanent cropland impact and 0.22 acres of temporary cropland impact. A standpipe for an irrigation line and water storage tank located between Marsh Creek Road and Byron Highway Intersection will be relocated outside the R/W line. This relocation will result in 0.06 acres of permanent cropland and 0.10 acres of temporary cropland impact. The temporary impacts to cropland acreage by the utility and irrigation line relocation are included in Table 1 under "Cropland."

Areas of temporary ground disturbances will be re-contoured, if appropriate, and re-vegetated with seeds and/or cuttings of appropriate plant species to promote restoration to pre-project conditions. Underground telephone line and underground fiber-optic lines located at the eastern end of the project on the north side of the roadway will be protected in place and will not be relocated.

Byron Intersection

The construction of buffer zone would improve operations at the intersection at Byron Highway. Office of Traffic Operations requested that the curbed islands be removed and the lane configuration be as follows:

1. On SR-4 eastbound direction, one through lane, one merging lane and one right turn pocket;
2. On SR-4 westbound direction between Marsh Creek Road and Byron Highway, two lanes and one left turn pocket;
3. On Byron Highway northbound direction, one left turn pocket and a combined left turn and no free right turn pocket; and
4. On Byron Highway southbound direction, one lane.

Dirt Road

The project design had been revised that there will be no need to realign the dirt road at the eastern end of the project. Therefore, there will be no impacts associated with the dirt road.

Roadside Seepage Ditch ("Waters of the State")

An approximately 500 feet long seepage ditch located along the east side of the highway, south of Marsh Creek Road, will be relocated to the east of the existing ditch to accommodate the new widening. The relocation will result in 0.10 acres of temporary impact that is included in Table 1 as "Slough/Channel" (see, attached Figure 2 Site Plan

Map, Sheet 1), see also, attached Figure 4 Site Plan Map with Construction Stages, Sheet 1.

Roadside Ditch (“Waters of the U.S.”)

An approximately 800 feet long roadside ditch along the south side of the highway (see, attached Figure 2 Site Plan Map, Sheet 2 and Figure 4 Site Plan Map with Construction Stages, Sheet 2), see also, attached Appendix B Wetland Delineation Map, Sheet 4, Point #16, will be relocated to the south of the existing ditch. to accommodate the new catch point for a 4:1 side slope, which will be effected by the new eastbound shoulder widening. The relocation will result in 0.07 acres of temporary impact that is included in Table 1 as "Slough/Channel".

Agricultural Ditch (“Waters of the U.S.”)

At the eastern end of the project, an existing 1150 feet long agricultural ditch along the north side of the highway to accommodate the new catch point for a 4:1 side slope, which will be affected by the westbound shoulder widening (see, attached Figure 2 Site Plan Map, Sheet 8 and Figure 4 Site Plan Map with Construction Stages, Sheet 8); see also, attached Appendix B Wetland Delineation Map, Sheet 17, Point #19, will be relocated to the north of the existing ditch. The relocation will result in a 0.19 acre of temporary impact that is included in Table 1 as "Slough/Channel" and noted in the relocation column. The area of Waters of the U.S. to be impacted within the ditch, per the USACE approved wetland delineation, is 0.09 acres.

Tree Removal

Approximately 39 trees with diameter at breast height (DBH) 4 inches or larger have been mapped within the boundaries of the project area, within the right-of-way (ROW). These trees include Black Locust (*Robinia pseudoacacia*), Valley Oak (*Quercus lobata*), Eucalyptus (*Eucalyptus sp.*), Almond (*Prunus dulcis*), Olive (*Olea sp.*), Sycamore (*Platanus sp.*), Willow (*Salix sp.*), Walnuts (*Juglans sp.*). These trees will be removed to meet the safety setback guidelines for fixed objects and sight distance requirements of the Highway Design Manual (HDM), and to provide a clear recovery area. Twenty of these trees are located between Marsh Creek Road and Byron Intersection on the eastern side of the roadway, 12 trees are located between Byron Intersection and Discovery Bay on the south side of the roadway, and the remaining 7 trees are located east of Discovery Bay Boulevard, on the south side of the roadway. Tree removal will occur prior to the start of nesting March 1. Due to the scattered nature of the trees, individual trees were not mapped as non-native woodland land cover. Rather they were mapped as part of the surrounding land cover (typically cropland).

According to Article 816-6.1002 [Permit Exceptions - No permit] of the Contra Costa County ordinances, “A tree permit is not required for the following situations: ...(6) Public Agencies/Utilities. Trimming and clearing within public agency or utility easements and rights-of-way for maintenance of easement or right-of-way will not require a tree permit. Lands owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this provision (Ords. 94-59, 94-22)”.

Trees in the project vicinity provide potential nesting habitat for bird species protected under the Migratory Bird Treaty Act. Preconstruction nesting bird surveys prior to any ground disturbance will be required to comply with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP). If active Swainson’s hawk nests are found in trees to be removed, all required avoidance measures will be implemented and loss of nest trees will be mitigated by tree plantings, as set forth in the ECCC HCP/NCCP.

Staging Areas

Caltrans identified staging locations within the ROW (see, attached Figure 2 Site Plan Map, Sheets 1 and 4). Staging areas will be used for temporary storage of heavy construction equipment, various construction materials, stockpile areas, equipment maintenance shops, and field offices. Staging will result in 0.22 acres of temporary ruderal impact and 0.22 acre of temporary cropland impact. These impacts are included in Table 1 as "Ruderal" and "Cropland". These areas of temporary ground disturbances will be re-contoured, if appropriate, and re-vegetated with seeds and/or cuttings of appropriate plant species to promote restoration to pre-project conditions.

Metal Beam Guardrail

Existing metal beam guardrails that do not meet Caltrans standard will be upgraded to current standards. New metal beam guardrails will be installed along various locations of the project area (see, attached Figure 2 Site Plan Map, Sheets 3-4 and 7-8). These locations are based on Caltrans’ Traffic Manual Guidelines so that accident severity could be reduced such as going down an embankment or striking a fixed object. Installing the new metal beam guardrail will result in 0.59 acres of permanent ruderal impact. This impact is included in Table 1 as “Ruderal.”

Safety Signals

Pedestrian safety countdown signals will be installed on signalized intersections with pedestrian crosswalks at Byron Highway, Bixler Road, and Discovery Bay Boulevard (see, attached Figure 2 Site Plan Map).

Asphalt Concrete Overlay

The project proposes a minimum of 0.1 foot asphalt concrete (AC) overlay on the existing traveled way where shoulder widening is being planned. Sealing cracks and resurfacing severe distressed areas will be done throughout the entire limits of the project.

Equipment

The project may require equipment such as cranes, pile-driving truck, excavators, bobcats, bulldozers, roadheaders, hydraulic excavators or backhoes, rubber-tired dump trucks, front-end loaders, load-haul-dumps, drill jumbos, front-end loaders and motor graders, sheepsfoot or drum rollers, and asphalt-paving machines.

Roadbed

Caltrans will conduct roadway excavation to pave the area to the required grade using equipment such as a front-end loader and a motor grader. Excavated material may be hauled offsite using dump trucks. The contractor will determine the location and type of excavated material disposal, and will be required to obtain any necessary environmental clearances associated with the disposal or reuse of these materials. Once the roadbed has been excavated, the soil will be rolled and vibrated with a sheepsfoot or drum roller to 95% relative compaction.

Structural Sections

The layers making up the structural section of the roadway will be placed in short lifts of less than 6 inches. The material will be hauled in, dumped, spread with a motor grader or asphalt-paving machine, and compacted.

Construction Schedule and Funding

Construction will likely begin March 2011 and complete in March 2013. The project is to be funded via the State Highway Operation and Protection Program project fund. This project is designated as a safety project.

Proposed Construction Stages Plan

See, attached Figure 4 Site Plan Map with Construction Stages and Project Engineering Features.

Project construction will occur during two dry seasons through different phases. For any given area, except the staging areas, work will occur during one dry season. The staging areas will be used for the duration of construction. The contractor will have the ability to

modify the construction plan, but will be required to comply with all specified work windows and the construction season constraints for any given work area. If areas of temporary impact are impacted for more than one dry season, then additional temporary impact fees must be paid for each additional year of impact. The staging areas will be charged for two years of impact. The proposed construction staging will take place as follows:

Utility Lines and Irrigation Lines

Utility Lines and Irrigation lines will be relocated prior to construction, before the end of 2010. Utility lines will be relocated by PG&E and Irrigation lines will be relocated by Byron Bethany Irrigation District (see, attached Figure 4 Site Plan Map with Construction Stages, Sheets 1 and 6).

Stage 1-Phase 1

1. Shoulder widening from PM 44.70 to PM 44.90 on the south side of the highway including ditch relocation. (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheet 1)
2. Shoulder widening from PM 45.10 to PM 45.55 on the south side of the highway (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheet 3).

Stage 1-Phase 2

1. Kellogg Creek Bridge Widening (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheet 3).
2. Shoulder widening from PM 46.10 to PM 46.30 on the south side of the highway (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheets 4-5).

Stage 1-Phase 3

Shoulder widening from PM 46.55 on the south side of the highway to the Agricultural Canal at PM 47.35 including Soldier Pile Wall Construction at the Canal (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheets 5-6).

Stage 1-Phase 4

Shoulder widening from PM 47.35 at the Canal to PM 48.00 on the south side of the highway (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheet 7).

Stage 2-Phase 1

Shoulder widening from PM 47.95 to PM 48.1 on the north side of the highway including agricultural ditch relocation (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheets 7-8).

Stage 2-Phase 2

Shoulder widening from PM 45.90 to PM 46.15 on the north side of the highway (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheet 4).

Stage 2-Phase 3

Shoulder widening from the beginning of the project area at PM 43.9 on the east side of the highway including work at Byron Intersection to the beginning of Discovery Bay housing at PM 44.90 on the north side of the highway (see, attached Figure 4 Site Plan Maps with Construction Stages, Sheets 1-2).

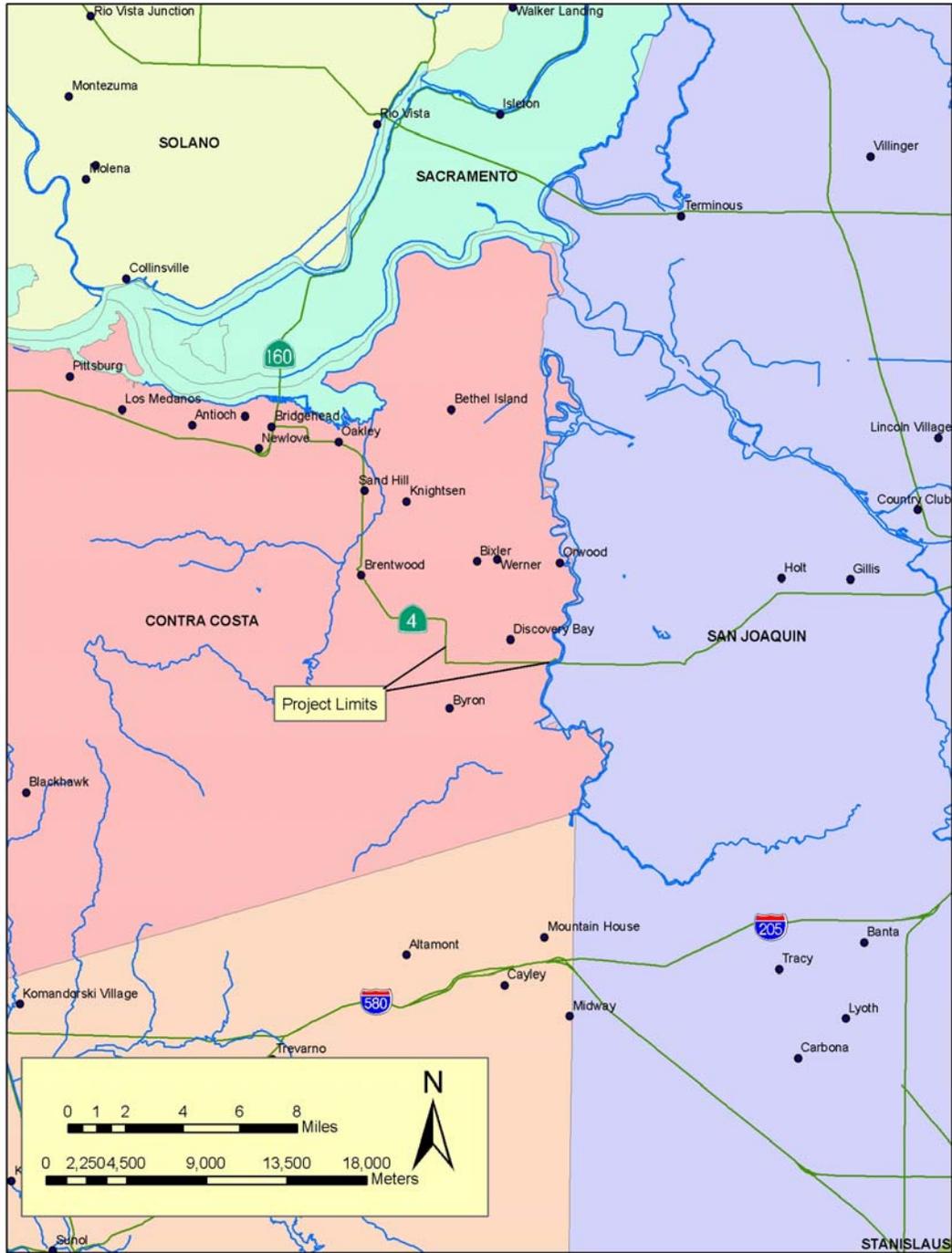


Figure 1. Project Vicinity Map

II. Existing Conditions and Impacts

Land Cover Types

SR-4 is a corridor along the Carquinez Strait and the Sacramento/San Joaquin Delta. The region is characterized primarily by suburban residential development, some areas of open space, and agricultural land interspersed with major industrial and oil refinery sites. The landscape of the area is mostly developed with areas of fields, vineyards, suburban development and industrial sites. Outside the vicinity of the highway prism, the landscape is disturbed by agricultural fields and housing.

Six different land cover types were identified, pursuant to the criteria defined by the HCP (see, Table 1 and HCP Section 3.3.2 Existing Land Cover Type and Figure 3-3: Land cover in the Inventory Area; see also, attached Figure 3a Land Cover Map and Figure 3b Giant Garter Snake Habitat Maps). The six HCP land cover types present within the project area are as follows:

1. “Ruderal:” disturbed areas characterized by sparse, nonnative, typically weedy vegetation, occurring mostly along SR-4.
2. “Riparian scrub:” the banks of Kellogg Creek, the banks of Kendall Creek, and the banks of the agricultural canal (“Waters of the U.S.”) below OHWM;
3. “Seasonal wetland:” five seasonal wetlands (“Wetlands”) (see, attached Appendix B Wetland Delineation, Sheets 6, 11, 13 – 17, Points #3, 6, 7, 9, and 20);
4. “Slough/channel:” Kellogg Creek and Kendall Creek, which were originally labeled as streams, but after consultation with the Conservancy, it was decided that the best label for such features is Slough/Channel, the agricultural canal and roadside and agricultural ditches (“Waters of the U.S.”);
5. “Croplands:” agricultural farmland adjacent to SR-4;
6. “Urban:” landscaped and ornamental areas adjacent to SR-4. Only non-urban landcover types were mapped in Figure 3a Land Cover Maps;

“GGS Aquatic and GGS Upland Habitat” was mapped in Figure 3b. This figure documents the required 200 foot avoidance buffers from aquatic habitat and

demarcates the areas to which the construction windows apply. All construction in GGS habitat (aquatic and upland) is prohibited October 1 through April 30.

Table 1. Land Cover Types in the Project Site.

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project	Acreage of Land to be "Temporarily Disturbed" for 1 dry season by Project	Acreage of Land to be "Temporarily Disturbed" for 2 dry seasons by Project (staging areas)	Relocation of Agricultural Ditch
Grassland^a				
<input type="checkbox"/> Annual grassland				
<input type="checkbox"/> Alkali grassland				
<input checked="" type="checkbox"/> Ruderal (Total: non-GGS and GGS Habitat)	5.11	8.56	0.22	
<input checked="" type="checkbox"/> Ruderal GGS Upland Habitat (Only)	4.72	5.54	0.22	
<input type="checkbox"/> Chaparral and scrub				
<input type="checkbox"/> Oak savannah				
<input type="checkbox"/> Oak woodland				
Jurisdictional wetlands and waters				
<input checked="" type="checkbox"/> Riparian woodland/scrub (All Riparian is GGS Upland Habitat)	0.05	0.25		
<input type="checkbox"/> Permanent wetland ^a				
<input checked="" type="checkbox"/> Seasonal wetland ^a (Total: non-GGS and GGS Habitat)	0.29	0.01		
<input checked="" type="checkbox"/> Seasonal wetland GGS Aquatic Habitat (Only)		0.01		
<input type="checkbox"/> Alkali wetland ^a				
<input type="checkbox"/> Aquatic/Open Water ^a				
<input checked="" type="checkbox"/> Slough/Channel ^a	0.07	0.14		0.19

Land Cover Type (acres, except where noted)	Acreeage of Land to be "Permanently Disturbed" by Project	Acreeage of Land to be "Temporarily Disturbed" for 1 dry season by Project	Acreeage of Land to be "Temporarily Disturbed" for 2 dry seasons by Project (staging areas)	Relocation of Agricultural Ditch
(Total: non-GGS and GGS Habitat)				
<input checked="" type="checkbox"/> Slough/Channel GGS Aquatic Habitat (Only)	0.01	0.07		0.19
<input type="checkbox"/> Pond ^a				
<input type="checkbox"/> Stream (acres) ^{a, d}				
<input checked="" type="checkbox"/> Total stream length (feet) ^{a, d}	6			
Stream length by width category				
<input type="checkbox"/> ≤ 25 feet wide				
<input checked="" type="checkbox"/> > 25 feet wide	6			
Stream length by type and order ^e				
<input type="checkbox"/> Perennial				
<input checked="" type="checkbox"/> Intermittent	6			
<input type="checkbox"/> Ephemeral, 3 rd or higher order				
<input type="checkbox"/> Ephemeral, 1 st or 2 nd order				
Irrigated agriculture^a				
<input checked="" type="checkbox"/> Cropland (Total: non-GGS and GGS Habitat)	1.82	5.88	0.22	
<input checked="" type="checkbox"/> Cropland GGS Upland Habitat (Only)		1.23		
<input type="checkbox"/> Pasture				
<input type="checkbox"/> Orchard				
<input type="checkbox"/> Vineyard				

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project	Acreage of Land to be "Temporarily Disturbed" for 1 dry season by Project	Acreage of Land to be "Temporarily Disturbed" for 2 dry seasons by Project (staging areas)	Relocation of Agricultural Ditch
Other				
<input type="checkbox"/> Nonnative woodland				
<input type="checkbox"/> Wind turbines				
Developed				
<input checked="" type="checkbox"/> Urban	2.86	34.54	0.55	
<input type="checkbox"/> Aqueduct				
<input type="checkbox"/> Turf				
<input type="checkbox"/> Landfill				
Uncommon Vegetation Types (subtypes of above land cover types)				
<input type="checkbox"/> Purple needlegrass grassland				
<input type="checkbox"/> Wildrye grassland				
<input type="checkbox"/> Wildflower fields				
<input type="checkbox"/> SquirreltailSquirrel tail grassland				
<input type="checkbox"/> One-sided bluegrass grassland				
<input type="checkbox"/> Serpentine grassland				
<input type="checkbox"/> Saltgrass grassland (= alkali grassland)				
<input type="checkbox"/> Alkali sacatonstaccato bunchgrass grassland				
<input type="checkbox"/> Other uncommon vegetation types (please describe)				
Uncommon Landscape Features or Habitat Elements				
<input type="checkbox"/> Rock outcrop				
<input type="checkbox"/> Cave ^a Cave ^{at}				
<input type="checkbox"/> Springs/seeps				

Land Cover Type (acres, except where noted)	Acreeage of Land to be "Permanently Disturbed" by Project	Acreeage of Land to be "Temporarily Disturbed" for 1 dry season by Project	Acreeage of Land to be "Temporarily Disturbed" for 2 dry seasons by Project (staging areas)	Relocation of Agricultural Ditch
<input type="checkbox"/> Scalds				
<input type="checkbox"/> Sand deposits				
<input type="checkbox"/> Mines ^a Mines				
<input type="checkbox"/> Buildings (bat roosts) ^a				
<input type="checkbox"/> Potential nest sites (trees or cliffs) ^a				
Total (Including Urban)	10.2	49.38	0.99	0.19
Total (Excluding Urban)	7.34	14.84	0.44	0.19
Total GGS Upland	4.77	7.02	0.22	0
Total GGS Aquatic	0.01	0.08	0	0.19
Total GGS	4.78	7.10	0.22	0.19

^a Designates habitat elements that may trigger specific survey requirements and/or best management practices for key covered wildlife species. See Chapter 6 in the HCP/NCCP for details.

^b See Section 9.3.1 of the HCP/NCCP for a definition of "permanently disturbed." In nearly all cases, all land in the subject parcel is considered permanently disturbed.

^c Dedication of land in lieu of fees must be approved by the local agency and the Implementing Entity before they can be credited toward HCP/NCCP fees. See Section 8.6.7 on page 8-32 of the Plan for details on this provision. Stream setback requirements are described in Conservation Measure 1.7 in Section 6.4.1 and in Table 6-2.

^d Specific requirements on streams are discussed in detail in the HCP/NCCP. Stream setback requirements pertaining to stream type and order can be found in Table 6-2. Impact fees and boundary determination methods pertaining to stream width can be found in Table 9-5. Restoration/creation requirements in lieu of fees depend on stream type and can be found in Tables 5-16 and 5-17.

^e See glossary (Appendix A) for definition of stream type and order.

Jurisdictional Wetlands and Waters

Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the Final HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. (It should be noted that definitions of these features differ for state and federal jurisdictions.) If you have identified any of these land cover types to be present on the project site in Table 1, complete the section below.

Indicate agency that certified the wetland delineation:

USACE, RWQCB, or the ECCC Habitat Conservancy.

Wetland delineation maps attached in Appendix B.

Species-Specific Planning Survey Requirements

Based on the land cover types found on site and identified in Table 1, check the applicable boxes in Table 2a then go to Table 3 to check corresponding preconstruction survey or notification requirements that are triggered by the presence of particular landcover types or species habitat elements. The species-specific planning survey requirements are described in more detail in Section 6.4.3 of the Final HCP/NCCP

Table 2a. Species-Specific Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements on Site based on Chapter 6 of the Final HCP/NCCP.

Land Cover Type on Site?	Species	Habitat Element on Site?	Planning Survey Requirement
<input checked="" type="checkbox"/> Grasslands, oak savanna, or agriculture	San Joaquin kit fox	Assumed if within modeled range of species	Identify and map potential breeding and denning habitat and potential dens if within modeled range of species (see Appendix D of HCP/NCCP).
	Western burrowing owl	Assumed	Identify and map potential breeding habitat.
<input checked="" type="checkbox"/> Aquatic (ponds, wetlands, streams and marshes)	Giant garter snake	<input checked="" type="checkbox"/> Aquatic habitat accessible from San Joaquin River	Identify and map potential habitat.
	California tiger salamander	<input checked="" type="checkbox"/> Ponds and wetlands in grassland, oak savanna, oak woodland <input type="checkbox"/> Vernal pools <input type="checkbox"/> Reservoirs <input type="checkbox"/> Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
	California red-legged frog	<input checked="" type="checkbox"/> Slow-moving streams, ponds, and wetlands	Same as above
<input checked="" type="checkbox"/> Seasonal wetlands	Covered shrimp	<input checked="" type="checkbox"/> Vernal pools <input type="checkbox"/> Sandstone rock outcrops <input type="checkbox"/> Sandstone depressions	Identify and map potential breeding habitat.

Land Cover Type on Site?	Species	Habitat Element on Site?	Planning Survey Requirement
Any	Townsend's big-eared bat	<input type="checkbox"/> Rock formations with caves <input type="checkbox"/> Mines <input type="checkbox"/> Abandoned buildings outside urban areas	Map and document potential breeding or roosting habitat.
	Swainson's hawk	<input checked="" type="checkbox"/> Potential nest sites (trees within species' range usually below 200')	Inspect large trees for presence of nest sites.
	Golden eagle	<input checked="" type="checkbox"/> Potential nest sites (secluded cliffs with overhanging ledges; large trees)	Document and map potential nests.

^a Vernal pool fairy shrimp, vernal pool tadpole shrimp, longhorn fairy shrimp, and midvalley fairy shrimp.

Results of Species-Specific Planning Surveys Required in Table 2a

Caltrans biologists Karen Taylor, Tami Schane, June James, Hal Durio (botanist), Samira Abubekr, Robert Young, Michael Galloway, and Jonathan Mates-Muchin conducted field reviews, surveys, and habitat assessments on October 14, November 14, November 18, and December 23, 2004, September 26 and 28, and December 6, 2005, April 27, and May 18, 2006, July 11, 2007, and June 13, 2008. Surveys were conducted for flora and fauna to determine the presence or absence of any sensitive species or critical habitat used by sensitive species, and wetlands identified for their potential as jurisdictional water of the U.S. Some of this work was done specifically to comply with the East Contra Costa County Habitat Conservation Plan and obtain a take authorization and mitigate for impacts to threatened and endangered species covered by the HCP/NCCP. A comprehensive list of plant and animal species observed in the field is attached (see, attached Appendix C).

URS biologists Lorena Solorzano-Vincent and Matthew Bettelheim conducted reconnaissance-level field surveys (URS Planning Surveys) on July 16 and 21, 2009. The URS Planning Surveys consisted of walking the project area to evaluate and map land cover types and suitable habitat, pursuant to HCP Section 6.3.1 "Planning Surveys." In particular, the URS Planning Surveys assessed the location, quantity, and quality of suitable on-site habitat for the following specified "covered" wildlife and plant species: (1) giant garter snake (*Thamnophis gigas*), (2) Swainson's hawk (*Buteo swainsoni*), (3) white-tailed kite (*Elanus leucurus*), (4) golden eagle (*Aquila chrysaetos*), (5) vernal pool fairy shrimp (*Branchinecta lynchi*), (6) Contra Costa goldfields (*Lasthenia conjugens*), (7) adobe navarretia, and (8) alkali milkvetch (*Astragalus tener* sp. *tener*).

Covered Species

San Joaquin Kit Fox (SJKF)

There are 24 SJKF occurrences according to the CNDDDB database within the four quadrangles surrounding the project site. There are three occurrences (569, 575, and 1033) within three miles of the project location. Occurrence number 569 was from 1972 in which three individual were observed, two of which were dead carcasses. California Department of Fish and Game (CDFG) observed one juvenile individual in 1991 on the edge of agricultural field (Occurrence 575). Occurrence 1033 is a general observance of an unknown number of individuals between 1972 and 1975. This project location is on the northern edge of SJKF habitat. In addition, habitat surrounding the project area is agricultural and developed lands, not ideal habitat for SJKF. Nonetheless, participation in the HCP and adherence to HCP conservation measures will ensure impacts are avoided and actions are taken to benefit the species.

Western Burrowing Owl

Caltrans biologists did not identify any burrowing owl or burrows during field surveys in the project area. Burrowing owls are known to occur in such habitat that is found in the project area. Preconstruction surveys will be performed for the burrowing owl.

Giant Garter Snake (GGS)

The giant garter snake (*Thamnophis gigas*), federally listed threatened, inhabits agricultural wetlands and other waterways such as irrigation and drainage canals, sloughs, ponds, small lakes, low gradient streams, and adjacent uplands in the Central Valley. Due to direct loss of natural habitat, the giant garter snake now relies heavily on marginal habitat such as rice fields, agricultural canals, and managed marsh areas. This species is typically absent from larger rivers because of lack of suitable habitat and emergent vegetative cover, and from wetlands with sand, gravel, or rock substrates. Giant garter snakes feed primarily on small fishes, tadpoles, and frogs. Habitat requirements consist of adequate water during the snake's active season (early-spring through mid-fall) to provide food and cover; emergent, herbaceous wetland vegetation, such as cattails and bulrushes, for escape cover and foraging habitat during the active season; grassy banks and openings in waterside vegetation for basking; and higher elevation uplands for cover and refuge from flood waters during the snake's dormant season in the winter. They breed from March and April through late July and early September (USFWS 2004).

Based on a review of the CNDDDB (CDFG 2009), the closest giant garter snake occurrence is located approximately 10 miles north of the project area. No further giant garter snake occurrences have been reported within a ten-mile radius of the project area.

During the URS Planning Surveys, all aquatic features on-site and within 200 feet of the project area were surveyed to identify potential giant garter snake habitat. For the purposes of this habitat assessment, the identification of suitable giant garter snake habitat was based primarily on a desktop review of the HCP's *Giant Garter Snake Modeled Habitat Distribution* map (HCP Appendix Figure D-09c) in conjunction with field surveys to identify the presence of standing or ponding water, emergent herbaceous wetland vegetation, upland refugia habitat, and upland dispersal habitat, which are the primary habitat components necessary to support giant garter snake habitation. Upland habitat was limited to non-urban land cover types within 200 feet of aquatic habitat that met these minimum primary habitat components. Marginal to poor habitat was identified on-site where open water was bordered by emergent herbaceous wetland vegetation, surrounded by grassy banks, rip-rap, and vegetated uplands with scattered small mammal burrowing activity for refugia habitat. These locations include drainage ditches, Kellogg and Kendall Creeks, and agricultural canals within the project area. Based on the results of these surveys, the project will result in 0.01 acres of permanent impact to aquatic giant garter snake habitat in Kellogg Creek, 0.19 acres of temporary impacts to aquatic giant garter snake habitat in the agricultural ditch, and 4.77 acres of permanent impacts to upland giant garter snake habitat and 7.02 acres of temporary impacts to upland giant garter snake habitat (see, attached Figure 3b Giant Garter Snake Habitat Maps). There will be no impacts to giant garter snake aquatic or upland habitat in Kendall Creek (see, attached Figure 3a, Sheet 8). The agricultural ditch will be re-located, will be as large or larger than the current ditch and will be seeded with suitable vegetation. These actions will serve to satisfy the temporary impact mitigations required by the HCP for impacts to the ditch and no wetland fees will be charged for this temporary impact.

California Tiger Salamander (CTS)

The nearest occurrence of CTS is approximately 1.8 miles from the project location. Based on the information from CNDDDB occurrence number 372, this individual was likely extirpated as of October 30, 2001. A local landowner introduced potential predators to the site and converted the land to an orchard. As such, there is no longer suitable breeding habitat at that location. The shoulder widening and median buffer project is primarily affecting agricultural lands that border the project area. Caltrans is widening bridge at Kellogg Creek and installing a soldier pile wall at the agricultural canal. These aquatic areas do not provide habitat for CTS. Due to the great distance

between known CTS populations and the project area, this project will have no effect on CTS dispersal habitat. Silt fence will exclude any CTS around the project area. Caltrans Biologist will take special consideration around project waterways. Nonetheless, participation in the HCP and adherence to HCP conservation measures will ensure impacts are avoided and actions are taken to benefit the species.

California Red-Legged Frog (CRLF)

Individual CRLF occurrences, according to the CNDDDB database are greater than 3 miles from the project site. The closest occurrence number is 220, which is 0.8 miles WNW of Byron Hot Springs. It was observed on April 30, 1997. Other occurrences are associated with the Los Vaqueros reservoir approximately 5.5 miles from the project site. There is limited connectivity between the known populations and the project site. Kellogg Creek becomes a linearized ditch-like waterway and flow is underground through a large extent of the lower reaches. In addition, Kellogg Creek is tidal at the project location. The brackish water is not favorable for CRLF. Pre-construction survey and silt fence will exclude any CRLF around the project area. Caltrans Biologist will take special consideration around project waterways. Nonetheless, participation in the HCP and adherence to HCP conservation measures will ensure impacts are avoided and actions are taken to benefit the species.

Vernal Pool Branchiopods

The vernal pool fairy shrimp (*Branchinecta lynchi*) was listed as threatened by the USFWS in 1994 (FR 59:80 and updated in FR 68:151). This species is rather widely distributed through the grasslands of California, from Shasta County south to Riverside County. Populations of vernal pool fairy shrimp are often small, and this species tends to be out-numbered by other co-occurring species. The vernal pool fairy shrimp occupies a variety of different vernal pool habitats, from small, clear, sandstone rock pools to large, turbid, alkaline, grassland valley floor pools. Although the species has been collected from large vernal pools, including one exceeding 25 acres, it tends to occur in small swales, or vernal pools in unplowed grasslands (Eriksen and Belk 1999). It is most frequently found in pools measuring less than 0.05 acre. Although it is fairly widely distributed throughout the Central Valley, the vernal pool fairy shrimp is not common on the western side of the Sacramento Valley.

Based on a review of the CNDDDB (CDFG 2009), the closest vernal pool fairy shrimp occurrence is located approximately 1 mile north of the project area. The next closest vernal pool fairy shrimp occurrences have been reported approximately 3 and 5 miles south, and five miles west of the project area. Though not reflected in CNDDDB, the site of the proposed Kellogg Creek detention basin approximately a quarter mile north of the

project site on the west side of Kellogg Creek is known to have supported vernal pool fairy shrimp at one time. The site contains wetland features created to mitigate wetland impacts.

As described earlier (see Section 2.1: Special-Status “Covered” and “No-Take” Plant Species), the hydrologic conditions of the man-made roadside ditches present on-site today do not represent traditional vernal pools (i.e., HCP “seasonal wetland” land cover type). The ditches provide extremely marginal habitat for vernal pool species. Although vernal pool branchiopod cysts may still exist in the project area, the habitat has been so modified by human activities that it is now extremely marginal, existing only along the paved roadway and extremely unlikely to support vernal pool branchiopods. Due to the absence of any suitable land cover type, it is unlikely there will be impacts to vernal pool fairy shrimp. Caltrans is purchasing wetland mitigation credits at the Elsie Gridley Mitigation Bank to satisfy U.S. Army Corps of Engineers requirements. Elsie Gridley Mitigation Bank has been designed to benefit vernal pool fairy shrimp. As a result, no species-specific avoidance or mitigation measures for vernal pool fairy shrimp are required under the HCP (see, HCP Section 6.3.1 Selected Covered Wildlife).

Swainson’s Hawk

Swainson’s hawk (*Buteo swainsoni*) (nesting) are state listed threatened and receive additional protection under the Migratory Bird Treaty Act (MBTA) and Migratory Bird Treaty Reform Act (MBTRA) (USFWS 2005). Swainson’s hawks inhabit and forage in open grasslands and savannah, riparian areas, open desert, croplands (grain and alfalfa fields), or livestock pastures. They breed in a variety of habitats including sparse tree stands in riparian areas and oak savannah. All birds covered by the HCP, including Swainson’s hawk, are also considered migratory birds and subject to the prohibitions of the Migratory Bird Treaty Act (MBTA) (see, MBTA discussion below).

Typical nest trees, according to the HCP (see HCP Appendix D Species Profile), include Fremont cottonwoods (*Populus fremontia*), willow (*Salix* spp.), sycamore (*Plantus racemosa*), valley oak (*Quercus lobata*), walnut (*Juglans* spp.), and occasionally, planted trees such as eucalyptus (*Eucalyptus* spp.), pine (*Pinus* spp.), and coast redwood (*Sequoia sempervirens*). Breeding occurs between March and August (Zeiner et al. 1990).

Based on the HCP/NCCP, the closest Swainson’s hawk occurrence was documented in 2006. It is located approximately 200 feet near the eastern end of the project area in a stand of mature western sycamore trees (see, attached Figure 3c Swainson’s Hawk Action Area Buffer Map). This nest was observed during the URS Planning Surveys in July 2009, and was attended by three fledgling red-tail hawks (see, attached Figure 3a

Land Cover Map, Sheet 17). During the URS Planning Surveys in July 2009, all trees on-site and within 0.5 mile of the project area were visually inspected to identify potential Swainson's hawk nests. Although no Swainson's hawk nests or nesting activity was observed, Swainson's hawks were observed in flight in the vicinity of the project area. Based on a review of the CNDDDB (CDFG 2009), the closest Swainson's hawk occurrence is located approximately 0.5 mile south of the project area.

Golden Eagle

The golden eagle (*Aquila chrysaetos*) (nesting & wintering) is designated as a California Species of Special Concern, fully protected by the California Department of Fish and Game, and is protected under the Bald Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) as amended, which prohibits the taking, possession and commerce of eagles, their nests, eggs or feathers unless expressly authorized by permit pursuant to federal regulations. Golden eagles are also protected under the Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) and Migratory Bird Treaty Reform Act (Division E, Title I, Section 143 of the Consolidated Appropriations Act, 2005, PL 108-447; MBTRA). All birds covered by the HCP, including golden eagle, are also considered migratory birds and subject to the prohibitions of the Migratory Bird Treaty Act (MBTA) (see, MBTA discussion below).

Golden eagles inhabit grasslands, savannahs, oak and pine woodlands and agricultural fields. They nest on cliffs and in large trees in open areas. Golden eagles exhibit strong site fidelity and will reuse the same nest from year to year; however, it is not uncommon for a breeding pair to have several alternate nest sites available within the same territory (Kochert et al. 2002, Baicich and Harrison 2005). Typical nest trees, according to the HCP (see, HCP Appendix D Species Profile), include several species of oak (*Quercus* spp.), foothill pine (*Pinus sabiniana* and *P. coulteri*), California bay laurel (*Umbellularia californica*), eucalyptus (*Eucalyptus* spp.), and western sycamore (*Plantanus racemosa*). Breeding season begins between February and May depending on the latitude, are single-brooded and may take more than six months to completely rear a single young (Kochert et al. 2002). During the non-breeding season they inhabit open habitats such as grasslands, savannahs, scrub and oak woodlands. Prey consists of small to medium-sized mammals including black-tailed jack rabbits (*Lepus californicus*), cottontails (*Sylvilagus* spp.), and California ground squirrels (*Spermophilus beecheyi*).

Based on a review of the CNDDDB (CDFG 2009), the closest golden eagle occurrence is located approximately 4 miles southwest of the project area.

During the URS Planning Surveys, all trees on-site and within 0.5 mile of the project area were visually inspected to identify potential golden eagle nests. No golden eagle nests or nesting activity were observed. The HCP states that for the Planning Survey, “large trees” are to be inspected for the presence/absence of nest sites (see, HCP Table 6-1: pg 3 of 3). Although the surveyed trees in the project area are small co-dominant trees with no suitable breeding habitat, large mature trees are present outside of the project area within a 0.5 mile radius that could provide suitable nesting habitat for golden eagle.

Covered and No-Take Plants

If any no-take plants are found on site, the provisions of Conservation Measure 1.11 must be followed (see *Avoidance and Minimization Measures* below).

Table 2b. Covered and No-Take Plant Species, Typical Habitat Conditions, and Typical Blooming Periods

Land Cover Type on Site?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
<input type="checkbox"/> Oak savanna	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
<input type="checkbox"/> Oak woodland	Brewer’s dwarf flax (<i>Hesperolinon breweri</i>)	C		May–Jul
	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
	Showy madia (<i>Madia radiata</i>)	C		Mar–May
<input type="checkbox"/> Chaparral and scrub	Brewer’s dwarf flax (<i>Hesperolinon breweri</i>)	C		May–Jul
	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo buckwheat (<i>Eriogonum truncatum</i>)	N		Apr–Sep; uncommonly Nov–Dec.
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
	Mount Diablo Manzanita (<i>Arctostaphylos auriculata</i>)	C	Elevation between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo ^b	Jan–Mar

Land Cover Type on Site?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
<input type="checkbox"/> Alkali grassland	Brittlescale (<i>Atriplex depressa</i>)	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^b	May–Oct
	Caper-fruited tropidocarpum (<i>Tropidocarpum capparideum</i>)	N		Mar–Apr
	Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Generally found in vernal pools	Mar–Jun
	Recurved larkspur (<i>Delphinium recurvatum</i>)	C		Mar–Jun
	San Joaquin spearscale (<i>Atriplex joaquiniana</i>)	C		Apr–Oct
<input type="checkbox"/> Alkali wetland	Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N		Mar–Jun
	Brittlescale (<i>Atriplex depressa</i>)	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^b	May–Oct
	San Joaquin spearscale (<i>Atriplex joaquiniana</i>)	C		Apr–Oct
<input type="checkbox"/> Annual grassland	Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N		Mar–Jun
	Big tarplant (<i>Blepharizonia plumosa</i>)	C	Elevation below 1500 feet ^b	Jul–Oct
	Brewer's dwarf flax (<i>Hesperolinon breweri</i>)	C	Restricted to grassland areas within a 500+ buffer from oak woodland and chaparral/scrub ^b	May–Jul
	Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Generally found in vernal pools	Mar–Jun
	Diamond-petaled poppy (<i>Eschscholzia rhombipetala</i>)	N		Mar–Apr
	Large-flowered fiddleneck (<i>Amsinckia grandiflora</i>)	N		Apr–May
	Mount Diablo buckwheat (<i>Eriogonum truncatum</i>)	N		Apr–Sep; uncommonly Nov–Dec
Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 ^b	Apr–Jun	

Land Cover Type on Site?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
	Round-leaved filaree (<i>California macrophylla</i>) ¹	C		Mar–May
	Showy madia (<i>Madia radiata</i>)	C		Mar–May
<input checked="" type="checkbox"/> Seasonal wetland	Adobe navarretia (<i>Navarretia nigelliformis</i> ssp. <i>nigelliformis</i>)	C	Generally found in vernal pools ^b	Apr–Jun
	Alkali milkvetch (<i>Astragalus tener</i> sp. <i>tener</i>)	N		Mar–Jun
	Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Generally found in vernal pools	Mar–Jun

^a From California Native Plant Society (2007) *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site.

^b See Species Profiles in Appendix D of the Final HCP/NCCP.

Results of Planning Surveys for Covered and No-Take Plants

Pursuant to HCP Section 6.3.1 (Planning Surveys for Covered and No-Take Plants), Caltrans and URS conducted Planning Surveys for covered and no-take plants from April to June 2006 and 2007. These surveys documented the absence of any suitable seasonal or alkali wetland habitats within the project area. As further explained below, Adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*), Alkali milkvetch (*Astragalus tener* sp. *tener*), and Contra Costa goldfields (*Lasthenia conjugens*) have no potential to occur on-site.

Adobe Navarretia

Adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*), a California Native Plant Society (CNPS) List 4.2 species, is an annual herb known from Alameda, Butte, Contra Costa, Colusa, Fresno Kern, Merced, Monterey, Placer, Sutter, and Tulare counties. This species is presumed extirpated in Contra Costa County. The typical habitat for adobe navarretia includes valley and foothill grasslands and vernal pools in occasionally clay or serpentine soils. The species' elevation range is limited to between 328 – 3,280 feet, and the bloom period falls between April and June

Alkali Milkvetch

Alkali milkvetch (*Astragalus tener* sp. *tener*), a CNPS List 1B.2 species, is an annual herb known from Alameda, Contra Costa, Merced, Monterey, Napa, San Benito, Santa

Clara, San Francisco, San Joaquin, Solano, Sonoma, Stanislaus, and Yolo counties. This species is presumed extirpated in Contra Costa County. The typical habitat for alkali milkvetch includes valley and foothill grasslands, playas, and vernal pools in adobe clay or alkaline soils. The species' elevation range is limited to between 3 – 197 feet, and the bloom period falls between March and June.

Contra Costa Goldfields

Contra Costa goldfields (*Lasthenia conjugens*), a federally Endangered and CNPS List 1B.1 species, is an annual herb known from Alameda, Contra Costa, Mendocino, Monterey, Marin, Napa, Santa Barbara, Santa Clara, Solano, and Sonoma counties. All known populations for this species in the HCP inventory area have been extirpated (see, HCP Table 6-5 No-Take Species). The typical habitat for Contra Costa goldfields includes cismontane woodland, playas, valley and foothill grasslands and mesic vernal pools. The species' elevation range is limited to between 0 – 1,541 feet, and the bloom period falls between March and June.

Of the three plant species listed above, critical habitat has only been designated for Contra Costa goldfields. Based on a review of the CNDDDB (CDFG 2009), Contra Costa goldfields critical habitat is located approximately 2.5 miles south of the project area, although no Contra Costa goldfield occurrences have been reported within 10 miles of the project area.

During the July 2009 URS Planning Surveys all aquatic features on-site and within 250 feet of the project area were surveyed to identify potential vernal pool plant habitat. Although no HCP “covered” or “no-take” plant species were observed during the site visits, these surveys were performed at a reconnaissance level and were not intended to coincide with the plant's bloom period (March–June). Instead, pursuant to HCP Section 6.3.1 “Covered and No-Take Plants,” the surveys were to determine the on-site presence of suitable land cover types for “covered” and “no-take” plant species.

Given the undisturbed vernal pool habitat (i.e., HCP “seasonal wetland” land cover type) that occurs in Contra Costa County, it is reasonably prudent to assume that suitable habitat existed historically to support vernal pool plants within the boundaries of the project area. However, the project area has been subject to agricultural and urban development over the years, and the subsequent conversion and upkeep of lands for agriculture, urban growth, and infrastructure have disturbed the natural landscape. Agricultural practices such as deep-ripping and disking, road construction, and anthropogenic ground disturbances on-site have likely resulted in disturbances to any underlying claypan/harpan soils and microtopography that might otherwise have

contributed to the site's hydrology. Such activities may have fractured or punctured the restrictive claypan/harpan layer of vernal pools, which in turn damages their ability to pond water long enough to support the species that typically inhabit that habitat type. As a result, the hydrologic conditions present on-site today consist predominantly of man-made roadside ditches, agricultural canals, and rip-rapped or channelized creeks that could pond water during the rainy season. However, because these aquatic features do not represent undisturbed vernal pool habitat with the typical restrictive claypan/harpan layer, hydrology, and vernal pool communities, they cannot be considered traditional vernal pools. Of these features, roadside ditches such as those present on-site provide extremely marginal habitat for vernal pool species. Although the seed stock for vernal pool plants may still exist in the project area, the habitat has been so modified by human activities that it is now extremely marginal, existing only along the current paved roadway and unable to support vernal pool plants.

Based on the results of the URS Planning Surveys finding an absence of any suitable land cover type and based on Caltrans surveys, conducted in April and May 2006 and in June 2008, in which no rare plants observed, there will be no impacts to HCP covered and no-take plant species.

III. Species-Specific Monitoring and Avoidance Requirements

Preconstruction Surveys for Selected Covered Wildlife

Table 3. Applicable Preconstruction Survey and Notification Requirements based on Land Cover Types and Habitat Elements Identified in Table 2a.

Species	Preconstruction Survey and Notification Requirements
<input type="checkbox"/> None	
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Map all dens (>5 in. diameter) and determine status. Determine if breeding or denning foxes are on site. Provide written preconstruction survey results to FWS within 5 working days after surveying.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Map all burrows and determine status. Document use of habitat (e.g. breeding, foraging) in/near disturbance area (within 500 ft.)
<input checked="" type="checkbox"/> Giant garter snake (p. 6-44)	Delineate aquatic habitat up to 200 ft. from water's edge. Document any sightings of garter snake.
<input checked="" type="checkbox"/> California tiger salamander (p. 6-46) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence on site.

<input checked="" type="checkbox"/> California red-legged frog (p. 6-47) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence on site.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Document and evaluate use of all habitat features (e.g., vernal pools, rock outcrops). Document occurrences of covered shrimp.
<input type="checkbox"/> Townsend's big-eared bat (p. 6-37)	Determine if, site is occupied or shows signs of recent occupation (guano).
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.
Note: Page numbers refer to the Final HCP/NCCP.	

San Joaquin Kit Fox

Prior to any ground disturbance related to covered activities, a USFWS/CDFG-approved biologist will conduct a preconstruction survey of the project area. The surveys will establish the presence or absence of San Joaquin kit foxes and/or dens, and evaluate the use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999). Preconstruction surveys will be conducted within 30 days of ground disturbance. Within the R/W of the proposed project, the biologist will survey the proposed disturbance footprint and a 250-foot radius, where access is permitted, from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. If San Joaquin kit foxes and/or dens are identified in the survey area, the avoidance and minimization measures described in the following section (Construction Monitoring and Avoidance) will be implemented.

Western Burrowing Owl

Prior to the start of the breeding season February 1, a USFWS/CDFG-approved biologist will conduct preconstruction surveys to determine the presence of the burrowing owls within the R/W. If present, the birds will be evicted from the site using passive relocation techniques. The site will then be continuously monitored until start of construction in order to ensure that owls do not reoccupy the area. All surveys and passive relocation will be carried out in accordance with CDFG survey guidelines (California Department of Fish and Game 1993). If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows will be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or

similar structure will be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

Giant Garter Snake

Because giant garter snakes have the potential to occur within the project area, conservation measures in accordance with HCP Conservation Measure 3.6 (see, HCP Section 5.3.3: pg 5-113) shall be implemented and avoidance and minimization measures in accordance with the HCP (see, HCP Table 6-1: pg 1 of 3 and Section 6.4.3: pg 6-43) will be required. To avoid impacts to giant garter snake habitat, any construction activity that disturbs potential giant garter snake habitat and a 200-foot buffer will be limited to the period between May 1 and September 30, when giant garter snake is most active, to minimize direct mortality avoidance period requirement will not apply in the area of a Swainson's Hawk buffer, should such buffer be necessary. If activities are necessary in giant garter snake habitat between October 1 and April 30, the USFWS Sacramento Field Office will be contacted to determine if additional measures beyond those described below are necessary to minimize and avoid take (see, HCP Section 6.4.3: pg 6-44).

In areas where construction is to take place, all irrigation ditches, canals or other aquatic habitat will be dewatered between April 15 and September 30 to remove garter snake habitat. Dewatered areas must remain dry, with no puddle water remaining, for at least 15 consecutive days prior to the excavation or filling of that habitat. If a site cannot be completely dewatered, netting and salvage of prey items may be necessary (see, HCP Section 6.4.3: pg 6-44).

California Tiger Salamander (CTS) and California Red-legged Frog

Written notification will be provided to USFWS, CDFG, and the Conservancy at least 60 days prior to disturbance of potential breeding habitat in order to provide an opportunity for USFWS or CDFG to translocate any individuals of these species. The agencies in turn are required to notify the proponent within 14 days of their intent to translocate the species. The agencies will then be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent, or a longer period agreed to by the project proponent, USFWS, and CDFG.

Swainson's Hawk

The HCP states that for the Planning Survey, "large trees" are to be inspected for the presence/absence of nest sites (see, HCP Table 6-1: pg 3 of 3). Although the surveyed trees in the project area are small co-dominant trees with no suitable breeding habitat, large mature trees are present outside of the project area within a 0.5 mile radius that could provide suitable nesting habitat for Swainson's hawks.

Swainson's hawk preconstruction surveys as outlined in the Swainson's Hawk Technical Advisory Committee's 2000 *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* will be required to comply with the HCP (SWTAC 2000). Prior to any ground disturbance related to the project activities, trees that will be removed by the project will be removed in advance of other construction activities prior to the start of the nesting season (March 1). Nesting bird surveys will be conducted to ensure compliance with Migratory Bird Treaty Act. If Swainson's hawk nest trees are identified during preconstruction surveys that require removal, each tree shall be mitigated at a 15:1 ratio in accordance with the HCP (Table 6.1; Section 6.4.3: pg 6-41).

Golden Eagle

Preconstruction nesting bird surveys prior to any ground disturbance will be required to comply with the HCP (see, HCP Table 6-1: pg 3 of 3 and Section 6.4.3: pg 6-39). Trees that will be removed by the project will be removed in advance of other construction activities, prior to the start of the nesting season (March 1). Nesting bird surveys will be conducted to ensure compliance with Migratory Bird Treaty Act.

Vernal Pool Branchiopods

The hydrologic conditions of the man-made roadside ditches present on-site today do not represent traditional vernal pools. The habitat has been so modified by human activities that it is now extremely marginal, existing only along the paved roadway and unlikely to support vernal pool branchiopods. Due to the absence of any suitable land cover type and Caltrans pending purchase of mitigation credits at the Gridley mitigation bank, no species-specific avoidance or mitigation measures for vernal pool fairy shrimp are required under the HCP.

Construction Monitoring and Avoidance for Selected Covered Species

Construction Monitoring Plan Requirements in Section 6.3.3, Construction Monitoring, of the Final HCP/NCCP:

- Before implementing a covered activity, the applicant will develop and submit a construction-monitoring plan to the Implementing Entity⁷ for approval.**

⁷ The East Contra Costa County Habitat Conservancy and the local land use Jurisdiction must review and approve the plan prior to the commencement of all covered activities (i.e. construction).

Table 4. Applicable Construction Monitoring Requirements

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> None	N/A
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Establish exclusion zones (>50 ft) for potential dens. Establish exclusion zones (>100 ft) for known dens. Notify USFWS of occupied natal dens.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.
<input checked="" type="checkbox"/> Giant garter snake (p. 6-44)	Delineate 200-ft buffer around potential habitat. Provide field report on monitoring efforts. Stop construction activities if snake is encountered; allow snake to passively relocate. Remove temporary fill or debris from construction site. Mandatory training for construction personnel.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Establish buffer around outer edge of all hydric vegetation associated with habitat (50 feet of limit of immediate watershed supporting the wetland, whichever is larger). Mandatory training for construction personnel.
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

San Joaquin Kit Fox

If a San Joaquin kit fox den is discovered in the proposed development footprint, the den will be monitored for 3 days by a USFWS/CDFG–approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used. Unoccupied dens should be destroyed immediately to prevent subsequent use. If a natal or pupping den is found, USFWS and CDFG will be notified immediately. The den will not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFG. If kit fox activity is observed at the den during the initial monitoring period, the den will be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances will be demarcated. The

configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No covered activities will occur within the exclusion zones. Exclusion zone radii for potential dens will be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and will be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

Western Burrowing Owl

If, despite the implementation of the passive relocation measures described in the preconstruction survey section, burrowing owls are found during the breeding season (February 1-August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of the 250-foot radius non-disturbance buffer zone where feasible. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fled.

Giant Garter Snake

Giant garter snakes have the potential to occur within the project area. Therefore, mitigation measures in accordance with HCP Conservation Measure 3.6 shall be implemented and avoidance and minimization measures in accordance with the HCP will be required. To avoid impacts to giant garter snake habitat, any construction activity that disturbs potential giant garter snake habitat and a 200-foot buffer will be limited to the period between May 1 and September 30, when giant garter snake is most active, to minimize direct mortality. If activities are necessary in giant garter snake habitat between October 1 and April 30, the USFWS Sacramento Field Office will be contacted to determine if additional measures beyond those described below are necessary to minimize and avoid take.

Swainson's Hawk

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Conservancy will coordinate with CDFG/USFWS to determine the appropriate buffer size. If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant (Caltrans) can

apply to the Conservancy for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFG. While the nest is occupied, activities outside the buffer can take place.

Golden Eagle

If active nests are identified within 1,000 feet of the project area, a construction monitor will ensure that no covered activities occur within the buffer zone established around an active nest. Although no known golden eagle nest sites occur within or near the Urban Line Limit (ULL), covered activities inside and outside of the HCP Preserve System (see, HCP Executive Summary: pg ES-4 and ES-5) have the potential to disturb golden eagle nest sites. Construction monitoring will ensure that direct effects to golden eagles are minimized (see, HCP Table 6-1: pg 3 of 3 and Section 6.4.3: pg 6-39).

Covered activities will be prohibited within 0.5 mile of active nests. Nests can be built and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the “Implementing Entity” (the Conservancy) (see, HCP Executive Summary: pg ES-6) will coordinate with CDFG/USFWS to determine the appropriate buffer size.

IV. Landscape and Natural Community-Level Avoidance and Minimization Measures

For All Projects

HCP/NCCP Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion

Generally, in response to Conservation Measure 1.10 (see attached Appendix D Water Pollution/Erosion Control Plans). Also, Storm Water Data Report (SWDR) has identified that the project area is within the Central Valley Regional Water Quality Control Board Region 5 (R-5 RWQCB) jurisdiction, which is responsible for implementation of state and federal water quality protection laws and regulations in the vicinity of the project site. This project complies with Caltrans Statewide National Pollution Discharge Elimination System (NPDES) permit and Construction General Permit. According to NPDES Permit and the Construction General Permit, Best Management Practices

(BMPs) will be incorporated to reduce the discharge of pollutants during construction as well as permanently to the Maximum Extent Practicable (MEP). These BMPs fall into three categories:

Temporary Construction Site BMPs

Construction Site BMPs are implemented during construction activities to reduce pollutants in storm water discharges throughout construction. Grading of existing slopes will be required. Temporary silt fence, stockpile cover, stabilized construction entrance/exit and temporary soil stabilizers are some of the temporary erosion and water pollution control measures that may be utilized in combination to prevent and minimize soil erosion and sediment discharges during construction.

Permanent Design Pollution Prevention BMPs

Design Pollution Prevention BMPs are permanent measures to improve storm water quality by reducing erosion, stabilize disturbed soil areas, and maximize vegetated surfaces. Source and sediment control measures will be utilized to prevent and minimize erosion from soil disturbed areas.

Source controls can utilize erosion control netting in combination with hydroseeding. Seed must comply with Caltrans' Standard Specifications. Seed not required to be labeled under the California Food and Agricultural Code shall be tested for purity and germination by a seed laboratory certified by the Association of Official Seed Analysts or by a seed technologist certified by the Society of Commercial Seed Technologists. Caltrans will use a native seed mix which includes Three weeks fescue (*Vulpia microstachys*), Purple needlegrass (*Nassella pulchra*), Nodding needlegrass (*Nassella cernua*), Prostrate tufted hairgrass (*Deschampsia caespitosa*), California poppy (*Eschscholzia californica*), California barley (*Hordeum californicum*), Dwarf goldfields (*Lasthenia californica*), Creeping wildrye (*Leymus triticoides*), Sky lupine (*Lupinus nanua*), and Pine bluegrass (*Poa secunda*). Seed must contain at most 1.0 percent total weed seed by weight.

Sediment controls such as biodegradable fiber rolls can be used to retain sediments and to help control runoff from disturbed slope areas. It is constructed with a pre-manufactured blanket consisting of either wood excelsior, rice or wheat straw, or coconut fibers or a combination of these materials. Or fiber roll is constructed with a pre-manufactured roll of rice or wheat straw, wood excelsior, or coconut fiber encapsulated within a photodegradable plastic or biodegradable jute, sisal, or coir fiber netting.

Outlet protection and velocity dissipation devices placed at the downstream end of culverts and channels are also Design Pollution Prevention BMPs that reduce runoff velocity and control erosion and scour.

Permanent Treatment BMPs

Permanent Treatment BMPs are permanent devices and facilities treating storm water runoff. Caltrans approved treatment biostrips will be installed as required on roadway side slopes in different locations throughout the project site.

HCP/NCCP Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds

Covered Migratory Birds

Breeding habitat for birds of prey protected by the CDFG Commission Code, Section 1600 and the federal Migratory Treaty Act occurs in the project area. These species include the white-tailed kite (*Elanus leucurus*) and red-tailed hawk (*Buteo jamaicensis*), which were observed during field visits, and other migratory birds (passerines and raptors) including Swainson's hawk and golden eagle, receive additional protection under the Migratory Bird Treaty Act (MBTA) and Migratory Bird Treaty Reform Act (MBTRA) (USFWS 2005). All birds covered by the HCP are also considered migratory birds and subject to the prohibitions of the MBTA (see, HCP Conservation Measure 1.11: pg 6-23). Red-tailed hawk is not covered by the HCP but is covered by the MBTA. Actions conducted under the HCP must comply with the provisions of the MBTA and avoid killing or possessing covered migratory birds, their young, nests, feathers, or eggs (see, HCP Conservation Measure 1.11: pg 6-23). To fulfill the requirements of the MBTA, covered activities must not result in take as defined by the MBTA of covered bird species. Also, under the HCP, white-tailed kite and golden eagle are listed as a "no-take species" and no direct take of individuals is allowed (see, HCP Table 6-5). MBTA species could breed in a variety of habitats including grasslands, cultivated fields, oak woodlands and suburban areas where prey is abundant.

During the URS Planning Surveys, all trees on-site and within 1,000 feet of the project area were visually inspected to identify potential MBTA species' nest sites. Although the surveyed trees in the project area are small co-dominant trees with no suitable raptor breeding habitat, large mature trees are present outside of the project area within a 0.5 mile radius that could provide suitable nesting habitat for MBTA raptor species. A single red-tailed hawk nest attended by three fledgling red-tail hawks was observed during the

Planning Surveys approximately 200 feet east of the project area in a stand of mature western sycamore trees.

Preconstruction surveys for MBTA species will be performed as part of preconstruction surveys for Swainson's hawk and golden eagle. If active nests are identified within 1,000 feet of the project area, a construction monitor will ensure that no covered activities occur within the buffer zone established around an active nest. Although no known MBTA nest sites occur within or near the ULL, covered activities inside and outside of the Preserve System have the potential to disturb MBTA nest sites. Construction monitoring will ensure that direct effects to MBTA species are minimized

Prior to any ground disturbance related to the project activities, trees found in the planning surveys and will be affected by the project will be removed in advance of the project, during the non-nesting season (September 15-March 1).

For Projects on or adjacent to Streams or Wetlands

HCP/NCCP Conservation Measure 1.7. Establish Stream Setbacks

The project design has been revised from an old proposal to use an area adjacent to Kellogg Creek as a staging location. The revised design proposes new staging locations (see, attached Figure 2 Site Plan Map, Sheet 1 and 4) that will satisfy the stream setback requirements.

HCP/NCCP Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization

Caltrans delineated approximately 3.22 acres of waters and wetlands within the project's environmental study limits (ESL) between PM 43.9 and PM 48.3. These areas were determined to be U.S. Army Corps of Engineers (USACE) jurisdictional "Wetlands" and "Waters of the U.S.," as verified by the USACE in its preliminary jurisdictional determination (see, attached Appendix E USACE Preliminary Jurisdictional Determination Letter). These areas include Kellogg Creek, Kendall Creek, an agricultural canal, roadside ditches, and seasonal wetlands. Kellogg Creek, Kendall Creek, the agricultural canal, and some roadside ditches are also determined to be under the jurisdiction of the State.

Caltrans is required to comply with the Federal Clean Water Act (CWA) for this project. Therefore, Caltrans obtained a 404 permit (# SPK 2009-00397) from the USACE on January 15, 2010 (see, attached Appendix E USACE 404 Permit and Jurisdictional Determination Letter), and applied for the Water Quality Certification or waiver pursuant to Section 401 of the CWA, which will be issued by the Regional Water Quality Control Board. Caltrans will also applied for the CDFG 1602 Lake and Streambed Alteration Agreement for work at Kellogg Creek and at the agricultural canal.

All waters and wetlands to be avoided by the project activities will be protected by installing Temporary Fence Type ESA (environmentally sensitive area) or Temporary Reinforced Silt Fence. Caltrans construction site BMPs will be used as mentioned under Conservation Measure 1.10.

ESA fencing will be inspected by a biological monitor during construction to ensure that the contractor maintains all ESA areas. The fencing will be removed only when all construction equipment is removed from the site. Actions within the project area will be primarily limited to vehicle and equipment operation on existing roads and designated construction areas. No project activities will occur outside the delineated project construction area.

All grindings and asphalt concrete waste will be temporarily stored within previously disturbed areas absent of habitat and at a minimum of 250 feet from any culvert or drainage feature.

For more detailed conservations measures for work around waterways, please see attached USFWS Biological Opinion (BO) (Appendix A).

For work in or adjacent to streams and wetlands (see Appendix F Photographs), the following avoidance and minimization measures will be implemented:

Kellogg Creek: Work within the Creek will be restricted to August 1 through October 1 in order to comply with the BO's conditions for delta smelt and in accordance with the GGS construction window. Work at the bridge will be done from the roadway to avoid further fill to Waters of the U.S. Caltrans will remove rock slope protection during construction to accommodate the bridge widening and will be reused and reinstalled after the widening completion. Temporary construction BMPs will be used adjacent to Kellogg Creek area to control sediments and minimize impacts associated with construction activities. These include ESA fence, temporary silt fence, and fiber roll installation.

Agricultural Canal: The project design has been revised to install a soldier pile wall at the agricultural canal on the north bank, above OHWM, to accommodate the shoulder widening, replacing a previous proposal to extend the culvert in the stream, which was rejected to avoid dewatering and other impacts. Work in the agricultural canal will be restricted to the period between May 1 and September 30. Temporary construction BMPs which include ESA fence, temporary silt fence, and fiber roll installation will be used during construction.

Kendall Creek (“Waters of the U.S.”): An old metal beam guardrail adjacent to Kendall Creek will be replaced with a new one. Work will be done from the roadway between May 1 and September 30. Temporary construction BMPs which include ESA fence, temporary silt fence, and fiber roll will be used during construction.

Roadside Seepage Ditch (“Waters of the State”): An approximately 500 foot (0.10 acre) roadside seepage ditch located south of Marsh Creek Road, will be relocated along the east side of the highway (see, attached Figure 2 Site Plan Map, Sheet 1) to accommodate new widening. Work will be done during the dry season, and temporary construction BMPs will be used during construction.

Roadside Ditch (Point #16 “Waters of the U.S.” on attached Wetland Delineation Map): An approximately 800 foot (0.07 acre) roadside ditch will be relocated along the south side of the highway (see, attached Figure 2 Site Plan Map, Sheet 2) to accommodate the new catch point for a 4:1 side slope which is affected by the new widening. A new ditch with identical dimensions as the old ditch will be constructed concurrently with, or in advance of, the start of filling the old. Work will be done during the dry season and temporary construction BMPs will be used during construction.

Agricultural Ditch (Point #19 “Waters of the U.S.” on the Wetland Delineation map): At the eastern end of the project, an existing 1150 foot (0.19 acre) agricultural ditch will be relocated along the north side of the highway (see, attached Figure 2 Site Plan Map, Sheet 8) to accommodate the new catch point for a 4:1 side slope, which is affected by westbound shoulder widening. A new ditch with identical dimensions as the old ditch will be constructed concurrently with, or in advance of, the start of filling the old ditch. Work will be done during the dry season, between May 1 and September 30, and temporary construction BMPs will be used during construction.

Seasonal Wetland (Point #7 on the Wetland Delineation Map): A 0.21 acre seasonal wetland located on the south side of the roadway (see wetland delineation map) will be filled as a result of the south side shoulder widening. Wetland loss could not be avoided

due to widening restriction on the north side because of the presence of under ground utilities (fiber optics and sanitary sewer lines) and housing. This unavoidable wetland loss will be compensated. Work will be done during the dry season and temporary construction BMPs will be used during construction.

For Projects adjacent to Protected Natural Lands (existing and projected)

Not Applicable. The project area is surrounded by agricultural and residential lands.

HCP/NCCP Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space

Not Applicable.

HCP/NCCP Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property

Not Applicable. The project area is not adjacent to HCP/NCCP preserves, likely HCP/NCCP acquisition sites, or existing public open space that is or will be linked to HCP/NCCP preserve.

HCP/NCCP Conservation Measure 1.9. Incorporate Urban-Wildland Interface Design Elements

Not Applicable.

For Rural Infrastructure Projects

HCP/NCCP Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance

Not Applicable.

HCP/NCCP Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance

Not Applicable.

HCP/NCCP Conservation Measure 1.14. Design Requirements for Covered Roads outside the Urban Development Area

- No concrete median barrier between opposing traffic is proposed for this project.

- The project design has been modified to widen the bridge at Kellogg Creek by six feet on the south side. This current design replaces an older proposal to construct an entirely new 40-foot eastbound, single span, bridge parallel to the existing one which would have been used for the westbound traffic. The older proposal was rejected due to adverse hydraulic and environmental impacts.
- The project design has been revised to install a soldier pile wall at the agricultural canal on the north bank, above OHWM, to accommodate the shoulder widening, replacing a previous proposal to extend the culvert in the stream, which was rejected to avoid dewatering and other impacts.
- A proposed staging area adjacent to Kellogg Creek was rejected and replaced with new locations (see, attached Figure 2 Site Plan Map, Sheet 3), to avoid any further impacts to the Creek.

V. Mitigation Measures

Permanent Impacts

Project permanent impacts will be compensated for through fees to be paid towards the HCP Conservancy. Fees are calculated in the Permanent Impact Fee Calculator-Exhibit 1

Also, according to the USACE 404 permit # SPK 2009-00397 issued on January 15, 2010 (see, attached Appendix E), Caltrans is required to compensate for impacts to 0.17 acre of open water ditches by creating 0.17 acre (replace in-kind) ditches within Caltrans right of way. Also, Caltrans is required to purchase 0.21 acre of wetland credits to mitigate for the loss of 0.21 acre of seasonal wetland impacted by the project activities. Wetland Credits will be purchased at Elsie Gridley Mitigation Bank.

Caltrans will be compensating for permanent GGS impacts contributing a supplementary fee to be used to benefit GGS habitat. Caltrans will compensate for 4.78 acres of permanent impacts to aquatic and upland GGS habitat, at the fee of \$35,000 per acre for a total amount of \$167,300 to be paid towards the Conservancy.

Temporary impacts

Project temporary impacts will be compensated for through fees to be paid towards the HCP Conservancy. Fees are calculated in the Temporary Impact Fee Calculator-Exhibit 2 As described previously, though project construction will occur during two dry seasons, for all areas except the staging areas work will occur during one dry season. The staging areas will be used for the duration of construction. The staging areas will be charged for

two years of impact. All other areas will be charged for only one year of temporary impact. If areas of temporary impact are impacted longer than anticipated, additional temporary impact fees must be paid for each additional year of impact. No fees to be paid for GGS temporary aquatic and upland impacts as defined through the Conservancy Fee Schedule.

Restoring temporary impacts

Caltrans plans to restore areas of temporary ground disturbances, including storage and staging areas, and temporary roads. These areas will be re-contoured, if appropriate, and re-vegetated with seeds and/or cuttings of appropriate plant species to promote restoration of the area to pre-project conditions. Caltrans defines areas of “temporary” disturbance to be any area that is disturbed during the project, but that after project completion will only be subject to standard operation and maintenance activities such as mowing and has the potential to be revegetated. To the maximum extent practicable (i.e., presence of natural lands), topsoil will be removed, cached, and returned to the site according to successful restoration protocols. Loss of soil from run-off or erosion will be prevented with straw bales, straw wattles, or similar means provided they do not entangle, block escape or dispersal routes of listed animal species.

Exhibit 1. Permanent Impact Fee Calculator

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: California Department of Transportation

Project Name: CC4 Median Buffer and Shoulder Widening Project

APN (s): N/A

Date: March 4, 2010

Jurisdiction: Participating Special Entity

DEVELOPMENT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

	Acreage of land to be permanently disturbed (from Table 1)*		Fee per Acre (subject to change on 3/15/10)		
Fee Zone 1	<u>7.34</u>	x	\$10,731	=	<u>\$78,766.31</u>
Fee Zone 2		x	\$21,462	=	<u>\$0.00</u>
Fee Zone 3		x	\$5,366	=	<u>\$0.00</u>
Development Fee Total					<u>\$78,766.31</u>

WETLAND MITIGATION FEE

	Acreage of wetland		Fee per Acre (subject to change on 3/15/10)		
Riparian woodland / scrub	<u>0.05</u>	x	\$61,981	=	<u>\$3,099.04</u>
Perennial Wetland		x	\$84,816	=	<u>\$0.00</u>
Seasonal Wetland	<u>0.29</u>	x	\$183,768	=	<u>\$53,292.59</u>
Alkali Wetland		x	\$173,981	=	<u>\$0.00</u>
Ponds		x	\$92,427	=	<u>\$0.00</u>
Aquatic (open water)		x	\$46,757	=	<u>\$0.00</u>
Slough / Channel	<u>0.07</u>	x	\$105,476	=	<u>\$7,383.32</u>
Linear Feet					
Streams					
Streams 25 Feet wide or less (Fee is per Linear Foot)		x	\$505	=	<u>\$0.00</u>
Streams greater than 25 feet wide (Fee is per Linear Foot)	<u>6.00</u>	x	\$761	=	<u>\$4,566.00</u>
Wetland Mitigation Fee Total					<u>\$68,340.95</u>

FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee	<u> </u>
Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments	<u> </u>
Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant	<u> </u>
Reduction Total	<u>\$0.00</u>

CALCULATE TOTAL FEE FOR PERMANENT IMPACTS AND CONTRIBUTION TO RECOVERY

	Development Fee Total	<u>\$78,766.31</u>
	Wetland Mitigation Fee Total +	<u>\$68,340.95</u>
	Fee Subtotal	<u>\$147,107.27</u>
GGS Compensation Fund	4.78 acres of impacts to GGS suitable habitat x	\$35,000 = <u>\$167,300.00</u>
	Contribution to Recovery	<u>\$60,000.00</u>
TOTAL AMOUNT TO BE PAID*		<u>\$374,407.27</u>

* This amount does not include the temporary impact fee. See Exhibit 2 for temporary impact fee.

Exhibit 2. Temporary Impact Fee Calculator

Exhibit 2: TEMPORARY IMPACT FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: California Department of Transportation

Project Name: CC4 Median Buffer and Shoulder Widening Project

APN (s): N/A

Date: February 26, 2010

Jurisdiction: _____

Participating Special Entity

TEMPORARY IMPACT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

	Acreage of land to be temporarily disturbed (from Table 1)*		Years of Disturbance (2 years is the minimum for ground-disturbing)		Fee per Acre (subject to change on 3/15/10)	
Fee Zone 1 (Project Impacts)	<u>14.84</u>	X	<u>2</u>	/30	X	\$10,731 = <u>\$10,616.64</u>
Fee Zone 1 (Staging Locations Impacts)	<u>0.44</u>	X	<u>3</u>	/30	X	\$10,731 = <u>\$472.17</u>
Fee Zone 2		X		/30	X	\$32,193.32 = <u>\$0.00</u>
Fee Zone 3		X		/30	X	\$5,366 = <u>\$0.00</u>
Temporary Impact Fee Total						<u>\$11,088.81</u>

TEMP WETLAND MITIGATION FEE	Acreage of wetland		Yrs. Of Disturbance		Fee per Acre (subject to change on 3/15/10)	
Riparian woodland / scrub	<u>0.25</u>		2.00		X	\$61,969.00 = \$ <u>1,032.82</u>
Perennial Wetland			2.00		X	\$84,799.00 = \$ <u>-</u>
Seasonal Wetland	<u>0.01</u>		2.00		X	\$183,731.00 = \$ <u>122.49</u>
Alkali Wetland			2.00		X	\$173,947.00 = \$ <u>-</u>
Ponds			2.00		X	\$92,409.00 = \$ <u>-</u>
Aquatic (open water)			2.00		X	\$46,748.00 = \$ <u>-</u>
Slough / Channel	<u>0.14</u>		2.00		X	\$105,455.00 = \$ <u>984.25</u>
Linear Feet						
Streams						
Streams 25 Feet wide or less (Fee is per Linear Foot)			<u>0.00</u>	2.00	X	\$505.00 = <u>\$0.00</u>
Streams greater than 25 feet wide (Fee is per Linear Foot)				2.00	X	\$761.00 = <u>\$0.00</u>
Wetland Mitigation Fee Total						<u>\$ 2,139.55</u>

FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee _____
 Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments _____
 Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant _____

Reduction Total **\$0.00**

CALCULATE FINAL TEMP IMPACT FEE

Development Fee Total \$11,088.81
 Wetland Mitigation Fee Total + \$2,139.55
Fee Subtotal **\$13,228.36**
 Reduction Total - **\$0.00**

TOTAL TEMPORARY IMPACT FEE TO BE PAID **\$13,228.36**

* City/County Planning Staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Draft Annual Report

RECOMMENDATION

ACCEPT report on the Draft East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan 2008/2009 Annual Report. **REVIEW** the Draft, **PROVIDE** initial comments, **REFER** the Draft to the Public Advisory Committee (PAC) and the agencies signatory to the HCP/NCCP Implementing Agreement, and **SCHEDULE** consideration of approval of the document for the June 16, 2010 Governing Board meeting.

DISCUSSION

Enclosed under separate cover please find a draft of the first Annual Report (Report) for the East Contra Costa County Habitat Conservancy (Conservancy) covering the start-up period of the HCP/NCCP, the first two full years of implementation of the Plan. The Annual Report is a required component of the Plan that allows staff, Governing Board, regulatory agencies and other stakeholders and partners to review the state of the Plan's implementation. Staff proposes to seek comment on the structure and content of the Annual Report from the Governing Board and other concerned parties and bring a revised report to the Board at its June meeting for consideration of approval.

CONTINUED ON ATTACHMENT: Yes
ACTION OF BOARD ON: March 17, 2010 APPROVED AS RECOMMENDED: _____
OTHER _____

VOTE OF BOARD MEMBERS

___ UNANIMOUS
AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
*Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY*

BY: _____, DEPUTY

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: March 12, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Maintenance Contracts for Conservancy Restoration Projects and Properties

RECOMMENDATION

AUTHORIZE staff to execute contracts for on-call maintenance services with the following companies:

- Pacific Open Space: \$25,000 with a term through December 31, 2010;
- Restoration Resources: \$50,000 with a term through December 31, 2010; and
- Thunder Mountain Enterprises, Inc: \$25,000 with a term through December 31, 2010.

DISCUSSION

The Conservancy has now completed construction of three wetland restoration/creation projects: Lentzner Springs Wetland (2008), Vasco Caves - Souza I Pond (2008), and Souza II Wetlands (2009). These projects need varying degrees of maintenance over the coming years. Anticipated maintenance activities include weeding, replacing plants, repairing silt fences and other BMPs that prevent silt from entering waterways.

In February 2010, Conservancy staff worked with staff from the East Bay Regional Park District (EBRPD) to develop a Request for Proposals for maintenance services. The solicitation was distributed to firms that have been used by the Conservancy and EBRPD successfully to maintain environmentally sensitive projects. Three proposals for were received. The bids are from: Pacific OpenSpace, Inc., Restoration Resources, Inc., and Thunder Mountain Enterprises, Inc.

CONTINUED ON ATTACHMENT: YES
ACTION OF BOARD ON: March 17, 2010 APPROVED AS RECOMMENDED: _____
OTHER: _____

VOTE OF BOARD MEMBERS

 UNANIMOUS
A YES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
*CATHERINE KUTSURI, SECRETARY OF THE EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY*

BY: _____, DEPUTY

To allow the Conservancy the most flexibility in maintaining the projects and to provide a means for evaluating performance of maintenance firms, staff is recommending on-call contracts with all three firms. The three proposed contracts are consistent with the approved 2010 Conservancy Budget which allocated \$100,000 for post-construction maintenance.

Pacific OpenSpace, Inc.: The recommendation is to authorize staff to execute a contract with Pacific OpenSpace, Inc. for on-call maintenance tasks for \$25,000 through December 31, 2010. Pacific OpenSpace has not previously worked on Conservancy restoration projects. They have a similar on-call contract with the East Bay Regional Park District and while their bid prices are competitive, there may be an opportunity to achieve some efficiencies when they are working in the region. Staff recommends this contract to test a new firm and have enough firms on retainer so that we can move quickly if there is a pressing maintenance need.

Restoration Resources, Inc.: The recommendation is to authorize staff to execute a contract with Restoration Resources, Inc. for on-call maintenance tasks for \$50,000 through December 31, 2010. Restoration Resources is the contractor that built and provided the first three months of maintenance on the Souza II Wetland Restoration Project. The staff of Restoration Resources is intimately familiar with the site, the wetland features, and plants that have been installed. They offer a competitive fee schedule and we know that they can provide the maintenance needed on Souza II. This 8+ acres site has over 15,000 plants installed. These plants need to be weeded, milk thistle is sprouting sporadically in the disturbed soils on site and there is ongoing maintenance of BMPs that need to be ensured. Because the scale of this project is magnitudes larger than the other restoration sites, staff recommends a large on-call contract with the firm we expect will do most of the work to maintain this property.

Thunder Mountain Enterprises, Inc.: The recommendation is to authorize staff to execute a contract with Thunder Mountain Enterprises, Inc. for on-call maintenance tasks for \$25,000 through December 31, 2010. Thunder Mountain originally worked with the Conservancy and the EBRPD to construct the Lentzner Springs Wetland Restoration Project. For the past year they have provided on-call maintenance for the site. They are intimate with the restoration project, plantings and hydrology of the site. Thunder Mountain has provided a competitive bid to provide maintenance services and staff recommends that we keep Thunder Mountain on-call to focus on this project site.

Attachments:

Proposals from:

Pacific OpenSpace, Inc.

Restoration Resources, Inc.

Thunder Mountain Enterprises, Inc.

I cannot provide a total cost to maintain each wetland, because we have not had the opportunity to visit the sites, and do not know the present condition of the vegetation.

Our crew can apply herbicide to about two acres per day at about \$ 890.00/ac, when there is a large continuous area to treat. This rate would apply to Souza II in Byron. The other wetlands, however, are one acre or less, so the work rate would be reduced.

The crew can mow about one acre per day with weed trimmers, and two acres per day with high weed mowers. As with herbicide application, the daily production would be lower when we need to drive between small sites.

Herbicide Application Requirements

I have read Attachment 3 regarding the Technical Specifications for Herbicide Application. Pacific OpenSpace, Inc. will comply with all of the terms of Attachment 3. The Pest Control Business License for Pacific OpenSpace, Inc. is number 32106. My QAL number is 103529.

Pacific OpenSpace has been maintaining natural areas and controlling weeds for over twenty years. We have previously encountered virtually all of the weeds on your list. Our crew is trained to identify the weedy plants and to carefully avoid damaging the native plants.

Prevailing Wage

Pacific OpenSpace will pay its staff in accordance with the Prevailing Wage laws. For this project, I assume that all work is covered under the classification of Landscape Maintenance Laborer.

Other Contract Requirements

I have read and agree to all terms included in the sample agreement.

Staff

Habitat Restoration Maintenance Consultant Licensed Qualified Herbicide Applicator

Dave Kaplow

I have been working in native plant restoration since 1982. My first experience was with Design Associates Working with Nature in Berkeley, CA. Our major project was the installation of the native plant landscape at the Berkeley North Waterfront Park.

I founded Pacific OpenSpace, Inc. in 1987. Since then, we have performed restoration and management projects throughout the Bay Area, including endangered species habitat restoration at San Bruno Mountain, superfund site restoration in Coalinga, and wetland habitat restoration all along the East Bay.

I will serve as the Habitat Restoration Maintenance Consultant and prime contact for this project. I also am the Qualified Herbicide Applicator (QAL 103529, exp. 12/31/10) for Pacific

OpenSpace.

Our goal is to emphasize management of natural areas. We see restoration as the first step in a long-term process. We look forward to assisting the East Bay Regional Park District in the management of their parks.

Reference: Diane Renshaw (Consulting Ecologist) 650-948-3537

Foremen

Jesus Garcia

Jesus began work with Pacific OpenSpace in July, 2001. For his first seven months of employment, he worked in our North Coast Native Nursery. His various tasks included moving and weeding plants, assisting with fertilizer and insecticide application, and various nursery tasks. An important part of his training was the identification of native plants.

Jesus joined our field staff in February, 2002. He has worked in all aspects of restoration and management, including plant installation, mowing, weeding, irrigation installation and maintenance, erosion control, bioengineering, and herbicide application. Jesus was promoted to foreman in April, 2009.

Jesus has been the foreman on most of the work Pacific OpenSpace has performed for the East Bay Regional Park District.

Reference: Mary Sairborg (Personal reference) 415-789-4358

Laborers

Jim Mazzucotelli

Jim has worked for Pacific OpenSpace since November, 2009, and had a great deal of experience prior to joining our firm. He worked for seven years with California State Parks as a parks maintenance worker. Since joining Pacific OpenSpace, he has worked in pesticide application, four planting projects and weed control work.

Reference: Patrick Robards (former supervisor at China Camp State Park) 707-882-3122

Daniel Cloud

DJ began with our field crew in August, 2008. During his 18 months of employment, he has worked in a wide variety of native plant restoration and management tasks. He has already learned many of the native plant species.

Reference: Lindi Johnson (Personal reference) 707-799-2067

Public Agencies or Conservation Organizations

I have listed some of the public agencies that we have assisted in restoring and managing their natural areas. I have also attached lists of representative projects we have performed for public and private entities.

East Bay Regional Park District

Pacific OpenSpace has an on-call contract with the East Bay Regional Park District to maintain restoration projects. Presently, we are working at the Berkeley Meadows to aid the establishment of the native grassland and wetlands. This involves weed control, herbicide application, mowing and species enhancement.

Contacts: Chris Barton 510-544-2627
Brad Olson 510--544-2622

City of Martinez

Pacific OpenSpace restored the riparian and wetland habitat of Alhambra Creek as it flows through downtown Martinez and into San Pablo Bay. Much of the restoration took place in the Martinez Regional Shoreline.

Over the past few years, we have been performing various restoration tasks on an on-call basis for the City of Martinez. Most of the work involves mowing, weeding and herbicide application. We have recently performed Lepidium spraying on City property and within the Regional Shoreline.

Contact: Joe Enke (City Engineer) 925-372-3524

City of Petaluma

Pacific OpenSpace performed maintenance of a restored detention basin at the southern border of the City of Petaluma. It is a runoff channel that is being used as a four acre stormwater detention basin. This project had been installed by another firm, and then neglected. The City of Petaluma hired our firm to clean up and maintain the site. It is now in very good condition.

Contact: Ron DeNicola (Parks Director) 707-778-4321

Southern Sonoma County Resource Conservation District

Pacific OpenSpace performed various on-call maintenance projects for the Southern Sonoma County RCD in 2006 and 2007. This work mainly included creek clearing and weed spraying.

Contact: Jason Sweeney 707-794-1242 ext. 126

City of Albany

Pacific OpenSpace installed the wetland restoration along Codornices Creek on the Berkeley-Albany border. This work was performed from 2005 through 2007. There was no ongoing maintenance of this work, but you can see a local example of one of our restoration installations.

Contact: Barry Whittaker 510-524-8170

Thank you again for asking us to bid on this project. Please let me know if you have any questions regarding our bid.

Sincerely,



Dave Kaplow



March 9, 2010

Ms. Abby Fateman
East Contra Costa County Habitat Conservancy
C/O Contra Costa County
651 Pine Street
4th Floor, North Wing
Martinez, CA 94553

RE: Request for Proposal "Habitat Restoration Maintenance Services"

Dear Ms. Fateman,

I am pleased to present the following proposal to the East Contra Costa County Habitat Conservancy in response to your request for proposals for habitat restoration maintenance services. We believe the following proposal and its attachments provide details of our comprehensive experience in the specialized and blended field of horticulture and restoration biology.

Our proposal includes a brief project understanding, acknowledgement and understanding of the East Bay Regional Park District's herbicide application requirements, acknowledgement and understanding of the current California prevailing wage requirements, a brief biography and qualifications for Restoration Resources, including an introduction and qualification for each of the project team members and their reference information, and a list of public agencies, including current contact information for whom we have performed similar work, along with our billing rates for the positions and equipment requested.

Restoration Resources is uniquely qualified to provide the services requested by your RFP. We look forward to your consideration of these qualifications and the attached costs sheets for the requested services. If you have any questions please direct them to me or Mr. Ralph D. Vigil our Director of Habitat Management.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Titus', is written over a light blue horizontal line.

Michael Titus
Director of Contract Management & Estimating



Project Understanding

The East Contra Costa Habitat Conservancy (Conservancy) is responsible for the long-term care and establishment of created and restored habitats of threatened and endangered (T&E) species within the eastern portion of Contra Costa County. These wildland open space habitats require maintenance not typical to urban landscapes owing to the sensitivity of the special status species that inhabit them and natural influences such as inundation, erosion, wind, water and animal borne invasive plant infestation, etc. Therefore, while the requested tasks may be similar in name, the resources and personnel dedicated to establishing these special status species habitats must be experienced in working in close proximity to T & E species, be able to identify the differing native vegetation communities such as riparian zones, wetlands, seasonal and vernal wetlands, and also recognize California native plants versus typical invasive weeds. Restoration Resources is prepared to provide these specialized services, both on-call and periodically at the direction of the Conservancy, to support all Conservancy efforts in protecting these natural resources at Lentzner Springs, Vasco-Souza I, Souza II, and Irish Canyon, for the benefit of its constituency.

Herbicide Application Requirements

Restoration Resources' staff, including our California licensed and qualified applicator (QAL), have reviewed the East Bay Regional Park District's technical specifications and requirements for the application of herbicides on the District's lands. Our QAL, Ms. Kathy Burke, and Restoration Resources are registered with Contra Costa County agriculture department to apply herbicides. Restoration Resources acknowledges and agrees to abide by these requirements, all other county and state requirements, and the product label of each used herbicide. Restoration Resources also utilizes the services of a state licensed Pest Control Advisor (PCA), and receives a site, pest, and season specific recommendation, which it follows, before any application of herbicides. Restoration Resources realizes the symbiotic association of all plant and animal species within a habitat or vegetative community, and we therefore continually strive to implement integrated pest management techniques for the control of invasive plants.



Compliance with California Prevailing

Restoration Resources is very familiar with the California Prevailing Wage statutes, and we have prepared our proposed prices to comply with Section 1773 and 1774 of the labor Code of the California.

Company Qualifications

Restoration Resources is a State Certified Small Business, with a contractor's license classified as C-27 Landscaping, Class A General Engineering Contractor, and Class B General Building. We specialize in the design, permit, construction, **maintenance and monitoring** of wetland, riparian, oak woodland, and endangered species mitigation and restoration projects. Our clients include federal, state and local agencies and governmental bodies, as well as, many private firms and publicly traded companies.

For over two decades we have consistently worked to fully implement natural resource protection and mitigation while ensuring the timeliness and cost effectiveness of our client's projects, and in full compliance with local, state, and federal regulatory agencies. Our approach to this purposeful effort embodies a more holistic ecosystem methodology using the best available information in natural history and ecology to guide us. We also have extensive experience in the implementation of habitat restoration and habitat establishment projects that provides invaluable practical knowledge base for habitat creation and successful establishment.

Our staff includes wildlife biologists, restoration ecologists, landscape habitat designers, certified pest control (herbicide) applicators, survey and CAD/GIS professionals, equipment operators, and skilled field technicians. Restoration Resources recognizes the unique aspect of environmental restoration and has taken steps to assure its staff is well trained in working with sensitive environmental habitats. We further recognize our employees are our greatest asset and therefore have successfully retained them such that our field staff (Foreman and Laborers) collectively averages more than eight years with the company, which is unique in the broader landscape industry. Consequently Restoration Resources labor force is very adept at indentifying and classifying the native plants and invasive exotic species listed in Attachment 2 of the RFP.

With few exceptions Restoration Resources' projects are monitored and measured against permit driven success criteria over a three (3) to five (5) year habitat establishment maintenance period. Therefore, as a successful habitat restoration contractor we are extremely experienced in the successful completion of the services requested by the Conservancy.



Proposed Project Team and References

LABORER:

Restoration Resources labor force of Restoration Technicians (12 Laborers), is very adept at identifying and classifying the native plants and invasive exotic species listed in Attachment 2 of the RFP. Our Restoration Technicians have very comprehensive skills in all aspects of habitat maintenance and therefore, we have multiple options to fulfill the project and Conservancy requirements for establishment maintenance activities.

NOE CARRASCO -- FOREMAN:

Mr. Carrasco is a well-regarded leader at Restoration Resources known for his thoroughness and attention to detail. He has been with Restoration Resources since 1997 and is highly experienced in native plant identification, installation and establishment maintenance. Mr. Carrasco has led small habitat management crews since 1998, and was promoted to restoration maintenance foreman in 2001. His project experience includes:

- Sacramento Area Flood Control Agency: Several Riparian, wetland and grassland habitat maintenance site(s)
- Sacramento Regional County Sanitation District: Bufferlands Restoration Project
- US Army Corps of Engineers: Lake Kaweah Riparian/Oak Mitigation
- Butte County Association of Governments/Caltrans: Hwy 149 Freshwater Marsh and Vernal Pool Mitigation Projects
- Placer County/Sundance: Lakeview Farms & Coon Creek Riparian & Wetland Habitat Restoration Project

MS. KATHY BURKE – QUALIFIED APPLICATOR LICENSE:

Ms. Burke (Madden) has been with Restoration Resources for more than twelve years. During her tenure she has worked in both our construction and habitat maintenance departments, and the last several years Ms. Madden has managed and coordinated crews and resources for the habitat maintenance department. In addition, Ms Burke serves as our invasive weed management specialist. She has been licensed by the state as a qualified applicator since 2004, and maintains this license through continuing education pest management classes.

- Sacramento Area Flood Control Agency: Several Riparian, wetland and grassland habitat maintenance site(s)
- Sacramento Regional County Sanitation District: Bufferlands Restoration Project
- US Army Corps of Engineers: Lake Kaweah Riparian/Oak Mitigation
- Butte County Association of Governments/Caltrans: Hwy 149 Freshwater Marsh and Vernal Pool Mitigation Projects
- Placer County/Sundance: Lakeview Farms & Coon Creek Riparian & Wetland Habitat Restoration Project



RALPH D. VIGIL – RESTORATION MAINTENANCE CONSULTANT:

Mr. Vigil has been with Restoration Resources for more than 19 years and currently serves as Director of Habitat Management and Corporate Secretary. He has participated in virtually every wildland mitigation project completed by Restoration Resources during this tenure, and currently directs all habitat establishment activities. Mr. Vigil is a member of the California Invasive Plant Counsel, California Native Plant Society, California Native Grasslands Association, California Chapter – Society for Ecological Restoration (2010 Region Director). From the many projects Mr. Vigil has directly managed the establishment maintenance activities we list the following:

- Sacramento Area Flood Control Agency: Several Riparian, wetland and grassland habitat maintenance site(s)
- Sacramento Regional County Sanitation District: Bufferlands Restoration Project
- US Army Corps of Engineers: Lake Kaweah Riparian/Oak Mitigation
- Butte County Association of Governments/Caltrans: Hwy 149 Freshwater Marsh and Vernal Pool Mitigation Projects
- Placer County/Sundance: Lakeview Farms & Coon Creek Riparian & Wetland Habitat Restoration Project

References:

Sacramento Area Flood Control Agency:

Ms. Lizette Crosbie: Natural Resource Manager – (916) 874-6451

Sacramento Regional County Sanitation District Treatment Plant:

Mr. Bryon Young: Natural Resource Supervisor – (916) 875-9273

U.S. Army Corps of Engineers:

Mr. Sidney Jones: Project Manger/Architect – (916) 557-7273

Butte County Association of Governments:

Mr. Andy Newsum P.E.: Project Manager – (530) 879-2468

Placer County Planning Department:

Mr. Edmund Sullivan: Senior Planner – (530) 886-3000

**Attachments: Billing Rate Spreadsheet
Copy of QAL and Pest Control Business License**



East Contra Costa County Habitat Conservancy Habitat Restoration Maintenance Services

Restoration Resources - Billing Rates
March 9, 2010

A. Labor/Hour

	<u>Hourly Rates</u>	<u>Daily Rates</u>	<u>Notes</u>
Foreman	\$ 35.50		Based on 8 hour workday
Laborer	\$ 28.50		Based on 8 hour workday
Consulting	\$ 75.00		Based on 8 hour workday

B. Equipment/Day

Hand Tools	\$	8.00	
Weed Trimmer	\$	12.50	
Chain Saw	\$	12.50	
High Weed Mower	Rental Cost + 15%		
Riding Mower	\$	185.00	
Tractor/backhoe	Rental Cost + 15%		
Herbicide Application Equipment	\$	38.50	
Hydroseeder	\$	308.00	25 gallon tank sprayer - attaches to ATV
Water Truck	Rental Cost + 15%		
Pick-up Truck	\$	154.00	
ATV	\$	115.00	
Small Water Trailer	\$	60.00	1000 gallon water ball

C. Herbicide Application/Acre

Herbicide application/Acre	\$335/Acre	
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D. Mark-up for Materials and Rental Equipment

All materials and rental equipment	Cost + 15%	
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E. Travel Cost/Mile

cost per mile	\$0.50/mile	Standard IRS 2010 reimbursement
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Includes 2 person crew, ATV and 25 gallon Sprayer. Per acre cost may be reduced when applied to 5+ acres per event.



CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION

1001 I STREET
SACRAMENTO, CALIFORNIA 95814

ISSUED: January 01, 2010
EXPIRES: December 31, 2011

PEST CONTROL BUSINESS MAIN
LICENSE

LICENSE NO. 32359

Invalid if insurance and/or qualified person(s) lapse before expiration date.

Mailing Address

SIERRA VIEW LANDSCAPE, INC.
3868 CINCINNATI AVE
ROCKLIN, CA 95765

Business Location

SIERRA VIEW LANDSCAPE, INC.
3888 CINCINNATI AVE
ROCKLIN, CA 95765

Mary-Ann Warmerdam, Director

POST THIS LICENSE PROMINENTLY IN PUBLIC VIEW
THIS LICENSE IS NOT TRANSFERABLE - ANY CHANGE IN OWNERSHIP REQUIRES A NEW LICENSE



DEPARTMENT OF PESTICIDE REGULATION
LICENSING/CERTIFICATION PROGRAM



QUALIFIED APPLICATOR LICENSE

DATE OF ISSUE

VALID THROUGH

01/01/2010

12/31/2011

QAL 108301 BCF

KATHY A MADDEN
3868 CINCINNATI AVE
ROCKLIN CA 95765

Thunder Mountain Enterprises, Inc

www.tme1.com



Company

Thunder Mountain Enterprises, Inc. (TME) is professional services company specializing in soil and water management. TME is a well known consultant to public agencies, and recognized for the preparation and implementation of Storm Water Pollution Prevention Plans (SWPPP) in complex environments. TME's construction services arm has been a leader in the design and operation of advanced treatment systems for Storm Water, erosion & sediment control best management practices, construction of lined containment ponds, land restoration, and various general engineering services.

TME principles and staff are among the most experienced and effective anywhere in matters of erosion control and storm water management, dating back 30 years. TME is a Certified Small Business #30493 with a large arsenal of soil and water management credentials, licenses, and certifications that I think you will find difficult to match including Landscape Development (C-27), Highway and Parking Improvement (C-32), General Engineering (A), Certified Professional in Erosion and Sediment Control (CPESC), Certified Professional in Storm Water Quality (CPSWQ), and Pest Applicator Certification (QAL).

Experience – partial list

High Profile SWPPP Consulting Projects

- Folsom Bridge, City of Folsom, USACE
- Twelve Bridges, Lincoln, CA
- Sac International Airport Terminal B Landside, Sac County
- Hazel Ave Bridge Widening, Sac County

Water Management

- Over 1,000 Storm Water Pollutions Prevention Plan Designs.
- Managed and Monitored Storm Water on over 4,500 acres.
- Chemically Treated 50,000,000 gallons of storm water in 2005 / 2006 wet season
- Numerous SWPPP Training classes with RWQCB for certificated trainings to over 1,000 developers, consultants, and inspectors

Soil Management

- Highway Drainage Repairs, Counties of El Dorado, Napa, Plumas, Sacramento, Nevada, Placer California Dept Transportation
- Deep Toe Drains, Slide & Road repair - Trinity County
- 48 miles Various Culvert Replacement - Caltrans Highway 49
- Highway Bank Failure Reconstruction - Various Locations, CA
- Landslide - Gabion Wall - EID, Georgetown Public Divide
- Install Pavement Edge Drains – Placer County

- Stream & Channel Re-alignment, Native Restoration, Construction/protection Wetlands– El Dorado County, Sacramento County, Lahontan District, Tribal Land, arious Private Properties
- Polymer Road Stabilization - Various Counties
- Design Build Soil Nail Wall/slope - City of LA Habra, various Caltrans, Napa Cnty, Del Norte Cnty, Calpine, Amador Cnty, City of Larkspur

Technology

Thunder Mountain has co-developed specialized technology solutions for Soil Stabilization, Low Impact Solutions, Slope Repair, and Advanced Storm Water Treatment.

TME Principals & Staff

David Smiley CPESC, CPSWQ, QAL	President
Elizabeth Smiley CPESC, CPSWQ, Cal Trans Certified, QAL	Secretary

TME Associates

Chad Langdon, PE
 Ellyn Davis, Botanist
 John Moehring, Chemist NICET Level III, Biologist
 Steven Devin, PE
 Chad Bush, QAL

TME Field Team

Project Managers
 Certified Technicians
 Equipment Operators
 Hazwop
 QAL

Primary Project Team for East Contra Costa County Habitat Conservancy-Habitat Restoration Maintenance Services

Lead Laborer/Operator: Rufino Hernandez (916) 381-3400 Rufino has been working for Thunder Mountain Enterprises for 9 years. Worked on entirety of the Lentzner Restoration and Maintenance Contracts, Worked on several EBPD landslide repair and erosion control projects.. Experienced in planting, drainage systems, shored excavation, erosion control, construction, equipment operation.

Foreman/Project Manager/Operator: Josh Dominick (916) 870-3521 cell. Josh has been with Thunder Mountain for 7 years. He is a skilled equipment operator, implements our Illness and Injury Prevention Program and tailgate safety meetings. Josh served as Cal Trans highway drainage improvement projects in the 2009 season. Josh was project manager for 3 EBRPD projects, and Lentzner restoration and maintenance.

Habitat Restoration, Storm Water Compliance, Soil & Water Management Consulting and Design: Beth Smiley and Dave Smiley. (916) 381-3400. Principals of Thunder Mountain Enterprises, Inc. Please review above introduction on company.

Licensed Qualified Herbicide Applicator: Chad Bush or Dave Smiley (916) 381-3400, to oversee all herbicide planning and use. Any additions or changes will be submitted in advance. Chad has over 20 years work experience in Landscape construction originating from a family owned business, Professional Landscape Solutions, where he performed all facets of the operation. He holds an AA in Horticulture.

Recent Public Agencies or Conservation Organization for whom work was performed.

East Bay Regional Park District. Contacts: Gene Mitchell (510) 812-4988 and Francisco Mariscal, P.E. (510) 544-2307 TME primarily worked with Bob Thomas but he has since retired. Completed several different projects with EBRPD. Redwood Park, Black Diamond-Lentzner, Oyster Bay, and Big Break. Services performed; slope stabilization, plantings, grading, hydroseeding, culvert installation, and fencing.

County of Sacramento. Sacramento Regional Wastewater Treatment Plant. Contact: Jason Lofton (916) 876-6008. Glen Peach (916) 599-2067. Construction of vernal pool and wetland at Bradshaw Interceptor.

East Contra Costa Habitat Conservation District. Contact: Abigail Fateman (925) 335-1272. Thunder Mountain provides maintenance and documentation at Lentzner Spring Restoration

Billing Rates portal/portal per HR:

Caltrans Operator 68
Landscape Operator 63
Project Manager/Foreman 65
Experienced/specialized Labor 57
Consulting 125

Dailey Rate for Equipment:

Hand Tools N/C
Line Trimmers N/C
Chain Saw N/C
High Weed Walk Mower N/C
25 HP 60" Toro Diesel Riding Mower 150
4X4 MF 30HP 72" Tractor Mower 180
4X4 Low Impact High Output Tractors 40 – 100HP 180

Low Ground Pressure Cat Track Loader 260
Cat 420D 4X4 Backhoe 260
Tractor or ATV mounted Herbicide Sprayer 180
Hand Sprayers N/C
Hydroseeder 300
2400 gal Water Truck 240
ATV 180
Water Trailer 50

Herbicide Cost per Acre (based on Roundup)

Production spray with Tractor 200
Production by hose (inaccessible) 350
Careful/ Selective by hand 450

Rental Equipment and Material Markups 15%

Travel Cost one way per Mile and Equipment Mobilization

Class A Driver and Equipment 2.00
Class B Driver and Equipment 1.80
Class C Driver and Equipment 1.25
Passenger vehicle N/C

*We agree to conduct work under CA Prevailing Wage Requirements and Herbicide Application Requirements.

