

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

**REQUEST FOR PROPOSALS
I-15/I-215 Interchange Improvements (Devore)**

FOR DESIGN AND CONSTRUCTION ON STATE HIGHWAY

On I-15 from 0.8 mile south of Glen Helen Parkway UC to 1.4 mile north of Kenwood Ave UC.

And

On I-215 from 1.2 mile south of Devore Road OC to the I-15 junction

DISTRICT 08, ROUTE I-15/I-215

**CONTRACT NO. 08-0K7104
08-SBD-I-15 PM 14.0/R16.4, I-215 PM 16.0/17.8
Project ID 08000003664**

Federal Aid Project

Addendum No. 9 Issued August 14, 2012

The Department issues this Addendum No. 9 to inform Proposers of the following changes and corrections to the RFP.

BOOK 2 PROJECT REQUIREMENTS

The Book 2, Project Requirements, is modified as indicated by the deletions and additions set forth below.

Section 4 Environmental Compliance

Add Exhibit 4-D “1602 Permit Requirements” attached to this addendum.

REFERENCE INFORMATION DOCUMENTS (RID)

See revised RID Index for a list of provided Reference Information Documents in the Data Room.

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08-SBd-15
PM 14.0 / R16.4

08-SBd-215
PM 16.0 / 17.8

EA 08-0K7100
PN 0800000366

1602 REQUIREMENTS (I-15 / I-215 Interchange Improvements Project)

This list shall be used to identify responsibility of compliance and implementation of each measure described in the approved 1602 Permit (Notification No. 1600-2012-0055-R6 (Revision 1)).

Measures	Measure No.	Responsible for Compliance and implementation of measure	Department Contact / Support
<u>Documentation at Project Site</u> Any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, shall be readily available at the project site at all times to present to DFG personnel, or personnel from another state, federal, or local agency upon request.	1.1	Design Builder	District Environmental Biologist
<u>Providing Agreement to Persons at Project Site</u> Copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site, including but not limited to contractors, subcontractors, inspectors, and monitors shall be provided.	1.2	Design Builder	District Environmental Biologist
<u>Notification of Conflicting Provisions</u> Notify DFG if determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact the Department to resolve any conflict.	1.3	Design Builder	District Environmental Biologist
<u>Project Site Entry</u> DFG personnel may enter the project site at any time to verify compliance with the Agreement.	1.4	Design Builder & Department	Resident Engineer / District Environmental Biologist
<u>Take of Nesting Birds</u> Sections 3503, 3503.5, and 3513 of the FGC prohibit take of all birds and their active nests, including raptors and other migratory non-game birds (as listed under the Migratory Bird Treaty Act).	1.5	Design Builder	District Environmental Biologist

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<p><u>Biological Monitor</u> A DFG-approved biologist shall be onsite to monitor all activities that result in the clearing of sensitive habitat as well as grading, excavation, and/or other ground-disturbing activities in jurisdictional areas. Obtain DFG approval of the biological monitor(s) 90 days prior to initiation of any project activities in jurisdictional areas. Flag the limits of grading and the jurisdictional areas, perform necessary surveys, and take photographs during the construction process, as required by this Agreement. The biological monitor is required to halt construction activities if threatened or endangered species are identified and notify the appropriate agencies immediately. The biological monitor shall have proven knowledge of the general area and experience handling sensitive species present in the project area.</p>	2.1	Design Builder	District Environmental Biologist
<p><u>Lighting Impacts</u> No lighting shall be allowed to impact jurisdictional areas, and the lighting and fencing for infrastructure adjacent to jurisdictional areas shall be designed or reviewed by a qualified biologist to allow wildlife to move within the open space and conserved areas without hindrance.</p>	2.2	Design Builder	District Design/ Environmental Biologist
<p><u>Speckled Dace Protection Plan</u> No later than 90 days prior to the initiation of any project activities in jurisdictional areas, a Speckled Dace Protection Plan shall be submitted to DFG for approval. The plan will be approved by a fisheries biologist with professional experience with speckled dace (<i>Rhinichthys osculus</i>). The plan shall include measures to avoid and minimize impacts to native fish when water is present in jurisdictional areas including dewatering, water diversion, and emergency provisions in case flooding events occur in the construction area.</p>	2.3	Design Builder	District Environmental Biologist

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<p><u>Two-Striped Garter Snake Relocation Plan</u> No later than 90 days prior to the initiation of any project activities in jurisdictional areas, a two-striped garter snake (<i>Thamnophis hammondi</i>) relocation plan will be submitted to DFG for review and approval.</p>	2.4	Design Builder	District Environmental Biologist
<p><u>Bat Surveys.</u> Using an appropriate combination of structure inspection, sampling, exit counts, and acoustic surveys, a DFG-approved biologist shall survey each structure and the surrounding area that may be impacted by the project for bats. Obtain DFG approval of the biologist(s) 90 days prior performing nesting bird surveys. If bats are found using any bridges or culverts within the project area, the biologist shall identify the bats to the species level, and evaluate the colony to determine its size and significance. The bat survey shall include:</p> <ol style="list-style-type: none"> 1. the exact location of all roosting sites (location shall be adequately described and drawn on a map) 2. the number of bats present at the time of visit (count or estimate) 3. each species of bat present shall be named (include how the species was identified) 4. the location, amount, distribution and age of all bat guano shall be described and pinpointed on a map, and 5. the type of roost: night roost (rest at night while out feeding) versus a day roost (maternity colony) must also be clearly stated. <p>The results of the bat survey shall be submitted to DFG prior to the initiation of construction activities. Reports shall be mailed to DFG Inland Deserts Region at the address below under Contact Information. Please reference SAA # 1600-2012-0055-R6. If any structures house a maternity colony of bats, construction activities shall not occur during the recognized bat breeding season (March 1 to October 1). This agreement does not authorize the take of adult or juvenile bats.</p>	2.5	Department	District Environmental Biologist

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If any structures house a maternity colony of bats, construction activities shall not occur during the recognized bat breeding season (March 1 to October 1). This agreement does not authorize the take of adult or juvenile bats.	2.5 (cont.)	Design Builder	District Environmental Biologist
<u>Bridge-dwelling Wildlife Protection</u> Comply with the following bridge-dwelling wildlife protection measures if bridge-dwelling wildlife is detected in the bridges or culverts:	2.6	Design Builder	District Environmental Biologist
A DFG-approved biologist shall design and direct implementation of exclusionary devices designed to prevent birds and bats from utilizing bridges/culverts before construction activities begin. Exclusionary devices shall be installed on all bridges prior to the initiation of nesting season (February 15) and shall cover both the sides and bottom of each bridge. Passage underneath each bridge (through the channel) shall not be impeded. An acceptable example is bird block netting with ½" x ½" mesh or smaller. Exclusionary mesh netting must be thick plastic with no exposed overlap joints, applied tightly, regularly maintained, and shall only be installed seven days (or earlier) after a survey has been conducted. If bats are found using any bridge, roost entrances shall be fitted with one-way doors that allow exit but prevent entrance to encourage bats to relocate. One-way doors shall remain in place, and exclusionary mesh shall not be installed, until the biologist confirms the bats have relocated.	2.6.1	Design Builder	District Environmental Biologist
Bridge widening designs shall contain and be constructed with similar structural features to encourage continued roosting by bats. Replacement roosts should have comparable thermal stability and durability, the same or similar search image, and the same cryptic roosting conditions as the roosts they replace.	2.6.2	Design Builder	District Environmental Biologist

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If a maternal colony (day roosting) exists, alternate bat roosting structures (i.e., light-weight concrete panels) shall be installed on bridges not anticipated to be impacted by construction within the vicinity of the project area. Construction and installation of roosting structures shall be supervised by a DFG-approved biologist. The total length of the roosting structures shall be no less than one-half the total length of the expansion joints that will be impacted during construction. The roosting structures shall remain in place following construction and shall not be removed. Alternate bat roosting structures shall be installed as soon as possible. A report on the construction, placement, and timing of installation of the roosting structures shall be submitted to DFG for review and concurrence. Please reference SAA # 1600-2012-0055-R6.	2.6.3	Design Builder	District Environmental Biologist
No gasoline or diesel engines shall be stored or operated under any bridge, unless the bridge has been cleared of all bats.	2.6.4	Design Builder	District Environmental Biologist
All night work (dusk until dawn) in the vicinity of the structure (i.e., roadway widening, resurfacing, lighting, land-closure setup, etc.) shall have concurrence from DFG and the biological monitor prior to any work or scheduling of any work between March 1 and October 1.	2.6.5	Design Builder	District Environmental Biologist
If feasible, the dimensions of existing hinges/expansion joints shall remain the same during and after construction. Shall notify DFG if existing dimension cannot be maintained.	2.6.6	Design Builder	District Environmental Biologist
Construction activities on, under, or around, or within close proximity to bridges/culverts will be limited to October 1 to March 1, unless all bats have been excluded from the structure and concurrence has been received from DFG.	2.6.7	Design Builder	District Environmental Biologist

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Vegetation removal around structures shall be minimized.	2.6.8	Design Builder	District Environmental Biologist
If any day roosting bats are discovered during construction activities all work shall stop on, under, around, or within 500-feet of the structure.	2.6.9	Design Builder	District Environmental Biologist
<u>ESA Fencing</u> The biological monitor shall establish Environmentally Sensitive Area (ESA) fencing around all jurisdictional areas identified in the jurisdictional delineation that will be avoided by the project. No construction work shall be allowed in areas limited by the ESA fencing. ESA fencing shall be inspected daily by the biological monitor, or project personnel working under the direction of the biological monitor.	2.7	Design Builder	District Environmental Biologist
<u>Nesting Bird Surveys</u> Shall not remove vegetation from the project site during the period of March 15 through September 15 to avoid impacts to nesting birds. If project construction cannot be avoided during the period of March 15 through September 15, a DFG-approved biologist(s) shall survey all potential nesting vegetation within the project site for nocturnal and diurnal nesting birds, prior to commencing project activities (including construction and/or site preparation). Shall obtain DFG approval of the biologist(s) 90 days prior performing nesting bird surveys. Surveys shall be conducted at the appropriate time of day, no more than three days prior to vegetation removal and/or disturbance. Documentation of surveys and findings shall be received by DFG prior to conducting project activities. Please reference SAA # 1600-2012-0055-R6. If no nesting birds were observed, project activities may begin. If an active bird nest is located, the nest site shall be fenced a minimum of 200 feet (500 feet for endangered, threatened, and candidate species; species of special concern; and all raptors) in all directions, and this area shall not be disturbed until after	2.8	Design Builder	District Environmental Biologist

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September 15 and until the nest becomes inactive. If threatened or endangered species are observed in the area, no work shall occur during the breeding season (March 15 through September 15) to avoid direct or indirect (noise) take of listed species.			
<p><u>Burrowing Owl</u> Prior to the initiation of any project activities in jurisdictional areas, conduct a burrowing owl habitat assessment. The assessment shall be conducted by a biologist knowledgeable of burrowing owl habitat, ecology, and field identification of the species and burrowing owl sign. The assessment shall consist of walking the project site to identify the presence of burrowing owl habitat. Burrowing owls use a variety of natural and modified habitats for nesting and foraging that is typically characterized by low growing vegetation. Burrowing owl habitat includes, but is not limited to: native and nonnative grassland, interstitial grassland with shrub lands, shrub lands with low density shrub cover, golf courses, drainage ditches, earthen berms, unpaved airfields, pastureland, dairies, fallow fields, and agricultural use areas. Burrowing owls typically use burrows made from fossorial (adapted for burrowing or digging) mammals such as ground squirrels or badgers, and often manmade structures such as earthen berms; cement culverts; cement, asphalt, rock, or wood debris piles; or openings beneath cement or asphalt pavement. A report summarizing the results of the habitat assessment shall be submitted to DFG within 30 days following the completion of the assessment. Please note that burrowing owl habitat assessments dated more than one year prior to the construction start date will not be accepted by DFG. If no suitable habitat is found on-site (i.e., if the site is completely covered in chaparral habitat, cement, or asphalt), no additional surveys are necessary. If suitable habitat is found onsite, burrowing owl surveys must be conducted by a qualified biologist in accordance with the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game, March 7 2012). Survey results shall be submitted to DFG within 30 days of completion of</p>	2.9	Design Builder	District Environmental Biologist

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surveys. If burrowing owls are found onsite, DFG shall be contacted for further guidance prior to commencing project activities. DFG recommends that focused burrowing owl surveys be conducted over all potential suitable habitats within the entire project site, even areas outside State jurisdiction pursuant to Section 1600 of the FGC. The burrowing owl is protected under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13) and Sections 3503, 3503.5 and 3513 of the FGC, which prohibit take of all birds and their nests, including raptors.			
<p><u>Nonnative plant species</u> DFG recommends the use of native plants to the greatest extent feasible in the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels. Shall not plant, seed, or otherwise introduce invasive nonnative plant species to the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels (minimum 100 foot setback from open space areas and 150 foot setback from stream channels and wetland/riparian mitigation sites). Invasive nonnative plant species not to be used include those species listed on the "California Invasive Plant Inventory, February 2006" and the "February 2007 Inventory Update", (which are updates to Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999"). This list includes: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, bush lupine, sweet alyssum, English ivy, French broom, Scotch broom, Spanish broom, and pepperweed. A copy of the complete list can be obtained by contacting the California Invasive Plant Council by phone at (510) 843-3902, at their website at www.cal-ipc.org, or by email at info@cal-ipc.org.</p>	2.10	Design Builder	District Environmental Biologist
<p><u>Best Management Practices</u> Shall actively implement best management practices (BMPs) to prevent erosion and the discharge of sediment in to streams and lakes during</p>	2.11	Design Builder	District Environmental Biologist

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<p>project activities. BMPs shall be monitored daily and repaired if necessary to ensure maximum erosion and sediment control. All fiber rolls, straw waddles, and/or hay bales utilized within and adjacent to the project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.</p>			
<p><u>Pollution and Litter.</u> Shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws:</p>	2.12	Design Builder	District Environmental Biologist
<p>Shall not allow water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities to enter a lake, streambed, or flowing stream or be placed in locations that may be subjected to high storm flows.</p>	2.12.1	Design Builder	District Environmental Biologist
<p>Spoil sites shall not be located within a lake, streambed, or flowing stream or locations that may be subjected to high storm flows, where spoil shall be washed back into a lake, streambed, or flowing stream where it will impact streambed habitat and aquatic or riparian vegetation.</p>	2.12.2	Design Builder	District Environmental Biologist
<p>Raw cement/concrete or washings thereof, asphalt, paint, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the State. These materials, placed within or where they may enter a lake, streambed, or flowing stream by Any party working under contract or with the permission of Permittee, shall be removed immediately.</p>	2.12.3	Design Builder	District Environmental Biologist

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No broken concrete, cement, debris, soil, silt, sand, bark, slash, sawdust, rubbish, or washings thereof, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any lake, streambed, or flowing stream.	2.12.4	Design Builder	District Environmental Biologist
No equipment maintenance shall be done within or near any lake, streambed, or flowing stream where petroleum products or other pollutants from the equipment may enter these areas under any flow.	2.12.5	Design Builder	District Environmental Biologist
<u>Habitat Restoration – Onsite</u> Within 30 days of project completion , shall restore all 6.765 acres of temporary impacted areas, by recontouring to preexisting grade and contours, and seeding/planting with California local native species that were present on-site. The plant palette shall be approved by a biologist and shall include plant species (including subspecies) that are currently present within the vicinity of each affected jurisdictional feature. The plant palette shall be submitted to DFG for review and concurrence at least 30 days prior to seeding/planting . Existing topsoil from known locations of sensitive plant populations will be salvaged and used in the restoration areas if feasible following Habitat Mitigation and Monitoring Plan (HMMP) stipulations and conditions listed in Section 4.1 of this Agreement.	3.1	Design Builder	District Environmental Biologist
<u>Riparian Habitat Restoration – Offsite</u> Shall mitigate permanent impacts to 0.215 acres of DFG jurisdictional riparian areas either (a) by restoring no less than 1 acre of riparian habitat within the Cajon Creek area; or (b) by providing sufficient funds to the	3.2	Department	Environmental Biologist

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<p>Santa Ana Watershed Association In-lieu Fee Program for the removal of 1 acre of nonnative plants within the upper Santa Ana Watershed, with proof of purchase provided to the Department no later than 90 days prior to initiation of any project activities in jurisdictional areas. If option (a) is selected, Permittee shall follow HMMP stipulations and conditions listed in Section 4.1 of this Agreement. Permittee acquired 75.7 acres of credits from the Cajon Creek Mitigation Bank. No later than 120 days after the execution of this Agreement and no later than 60 days prior to initiation of any project activities a jurisdictional delineation illustrating DFG jurisdictional areas no more than one year old shall be provided to DFG in order to demonstrate that the 75.7 acres of credits acquired in the Cajon Creek mitigation bank contain at least 1 acre of DFG jurisdictional riparian habitat. If Permittee demonstrates that no less than 1 acre of DFG jurisdictional areas are present within the acquired mitigation no other mitigation will be required pursuant to Section 3.2 of this Agreement.</p>			

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<p><u>Alluvial Fan Sage Scrub and ephemeral unvegetated channel mitigation – Offsite</u> Shall mitigate permanent impacts to 8.519 acres of DFG jurisdictional alluvial fan sage scrub areas by acquiring no less than 42.5 acres of alluvial fan sage scrub areas within DFG jurisdiction and shall mitigate permanent impacts to 3.598 acres of DFG jurisdictional ephemeral unvegetated channel by acquiring no less than 7.196 acres of ephemeral unvegetated channel or similar habitat as approved by DFG. Permittee acquired 75.7 acres of credits from the Cajon Creek Mitigation Bank. No later than 120 days after the execution of this Agreement and no later than 60 days prior to initiation of any project activities a jurisdictional delineation illustrating DFG jurisdictional areas no more than one year old shall be provided to DFG in order to demonstrate that the 75.7 acres of credits acquired in the Cajon Creek mitigation bank contain no less than 7.196 acres of habitat suitable for mitigation of impacts to ephemeral streambed and no less than 42.5 acres of alluvial fan sage scrub. Permittee shall be responsible for the acquisition and conservation in perpetuity of additional DFG approved Alluvial Fan Sage Scrub and ephemeral unvegetated streambed no later than 180 days after the execution of this Agreement if the mitigation credits acquired do not contain sufficient jurisdictional areas.</p>	3.3	Department	Environmental Biologist
<p><u>Plant Palette</u> All plant species installed within temporary impact areas shall include only local California native container plants, cuttings, and/or seed mix, and shall be typical of the existing native plant species present in the existing riparian areas within and adjacent to the project site. DFG recommends that plant material be installed between October 1 and April 30 to maximize the benefits of the winter rainy season.</p>	3.4	Design Builder	District Environmental Biologist

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<p><u>Habitat Mitigation and Monitoring Plan (HMMP)</u> Submit to DFG for review and approval a HMMP for the 6.765 acres habitat restoration site. If, pursuant to section 3.2 of this agreement, Riparian Habitat Restoration option (b) is selected than the 1-acre riparian restoration site shall be included in the HMMP. At a minimum, the HMMP shall include the following information:</p> <ul style="list-style-type: none"> a) description of the existing physical conditions of the proposed creation or restoration site, including water resources and habitat types, and a map that identifies the location of the site b) a plan for the preparation of the creation or restoration site, including the removal of nonnative plant species, non-wetland/riparian plant species, and grading c) a local California native plant palette d) a planting plan, including monitoring and maintenance measures and a timeline e) an irrigation plan f) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the creation or restoration site and a nonnative plant removal plan; and g) success standards with contingency measures. 	4.1	Design Builder	District Environmental Biologist
<p>Monitoring and maintenance of the creation or restoration site shall be conducted annually for a minimum of five years or until DFG determines the mitigation site is successful.</p>	4.1 (cont.)	Department	District Environmental Biologist
<p><u>Monthly Reports</u> Shall submit monthly construction status reports to DFG. These reports will disclose the status of the impacts to DFG jurisdictional areas per individual jurisdictional features. Any increase on the impact areas to jurisdictional features will require a written approval from DFG prior to construction begins within each individual feature and</p>	4.2	Design Builder	District Environmental Biologist

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may require an amendment of this Agreement.			
<p>Annual Reporting An annual report shall be submitted to DFG for a minimum of five years following plant installation or until DFG deems the 6.765 acres habitat restoration sites and the 1-acre riparian site (if this option is selected) are successful. At a minimum, this report shall include the following information:</p> <ol style="list-style-type: none"> 1) a description of the mitigation activities conducted during the previous year, including: (a) site preparation, (b) plant installation and an overview of the planting effort, (c) the number by species of plants replaced or naturally recruited, and (d) when the activities were conducted 2) current site conditions, including: (a) the percent survival, percent cover, and height of both tree and shrub species planted, and (b) the methods used to assess these parameters; and 3) information regarding nonnative plant removal, including: (a) the methods used for removal, (b) the amount removed and/or treated, (c) the frequency and timing of removal and treatment, (d) disposal specifics, and (e) a summary of the general successes and failures or failure of the nonnative removal plan. The report shall also include wildlife species observed at the creation site during monitoring surveys including sensitive species and/or listed species. Photos from designated photo stations shall be included. <p>The first annual report is due to DFG no later than twelve (12) months following plant installation.</p>	4.3	Department	Environmental Biologist
<p>Notification to CNDDB If any sensitive species are observed on or in proximity to the project site, or during project surveys, a California Natural Diversity Data Base</p>	4.4	Design Builder	District Environmental Biologist

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EA 08-0K7100
PN 0800000366

This list shall be used to identify responsibility of compliance and implementation of each measure described in the approved 1602 Permit (Notification No. 1600-2012-0055-R6 (Revision 1)).

Measures	Measure No.	Responsible for Compliance and implementation of measure	Department Contact / Support
<p>(CNDDDB) forms and maps shall be submitted to the CNDDDB within five working days of the sightings, and provide the regional DFG office with copies of the CNDDDB forms and survey maps. The CNDDDB form is available online at: www.dfg.ca.gov/whdab/pdfs/natspec.pdf. This information shall be mailed within five days to: DFG Natural Diversity Data Base, 1807 13th Street, Suite 202, Sacramento, CA 95814, Phone (916) 324-3812. A copy of this information shall also be mailed within five days to DFG Inland Deserts Region at the address below under Contact Information. Please reference SAA # 1600-2012-0055-R6.</p>			
<p><u>Notification of Start of Construction.</u> Shall notify DFG, in writing, at least five (5) days prior to initiation of project activities in jurisdictional areas, and at least five (5) days prior to completion of project activities in jurisdictional areas. Notification should be mailed to DFG Inland Deserts Region at the address below under Contact Information. Please reference SAA # 1600-2012-0055-R6.</p>	4.5	Design Builder	District Environmental Biologist

CALIFORNIA DEPARTMENT OF FISH AND GAME
INLAND DESERTS REGION
3602 INLAND EMPIRE BLVD., SUITE C-220
ONTARIO, CA 91764



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2012-0055-R6 (REVISION 1)

CALIFORNIA DEPARTMENT OF TRANSPORTATION
I-15/I215 INTERCHANGE IMPROVEMENT PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation (Permittee), represented by Mr. Scott Quinnell.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on May 1, 2012, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

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

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

PROJECT LOCATION

The project is located within the Cajon Creek, Lytle Creek, 5 features within Cable Creek, and 86 unnamed drainages along Interstate 215 (I-215) and Interstate 15 (I-15) tributary to the Santa Ana River, from I-15 approximately 0.8 mile south of the Glen Helen Parkway interchange to 1.4 mile north of the Kenwood Avenue interchange, and along I-215 from 1.2 mile south of the Devore Road overcrossing to I-15 junction, within the City of San Bernardino and the County of San Bernardino, State of California.

PROJECT DESCRIPTION

The project will be built using the "design-build" process. Design-build is a project delivery system that involves the final design and construction components of a project being awarded to a single entity known as the design-builder. Permittee will be responsible for ensuring that all avoidance, minimization, and/or mitigation measures required by this Agreement are implemented.

The Project is limited to the following activities:

I-15 South Segment

This segment of I-15 lies between the I-15/I-215 Interchange and the south project limits and includes the following construction activities (as shown in Figures L-1 and L-2 of the Notification):

- Adding a northbound mainline lane between the Glen Helen Parkway off-ramp and the I-215 junction.
- Adding a northbound auxiliary lane between the Glen Helen Parkway on-ramp and the I-215 junction.
- Adding a southbound mainline lane between the I-215 junction and the Glen Helen Parkway on-ramp, where it will connect with the existing fourth southbound mainline lane.
- Adding a southbound auxiliary lane between the I-215 junction and the southbound Glen Helen Parkway off-ramp.
- Making minor adjustments to the Glen Helen Parkway on and off-ramps to accommodate the new lanes, such as, the northbound deceleration lane prior to the Glen Helen off-ramp and the southbound acceleration lane from the on-ramp.

The additional lanes will be physically constructed in the existing median, and the existing lanes shifted into the median. The existing bridges over Glen Helen Parkway will be widened by one lane in each direction in the median. The existing bridge over Glen Helen Road will be widened by two lanes in each direction in the median. Immediately north of Glen Helen Road, the northbound widening will begin to shift to the outside to align with the connector ramps of the I-15/I-215 Interchange.

The existing I-15 fourth northbound lane is "exit only" to Glen Helen Parkway, and the third northbound lane is an optional exit lane, effectively providing a two-lane exit to Glen Helen Parkway. The project will maintain the existing two-lane off-ramp by providing an auxiliary (fifth) lane northbound from 0.8 miles south of the Glen Helen Parkway Overcrossing to the off-ramp. Correspondingly, the southbound Glen Helen Parkway on-ramp will continue to provide two lanes, with an auxiliary lane extending from the on-ramp to 0.8 miles south of the overcrossing.

I-15/I-215 Branch Connectors

The following construction activities will occur as shown in Figure L3 of the Notification:

- The northbound I-215 to southbound I-15 branch connector will be retained approximately in its present location, but widened to two lanes for most of its length to allow for passing.
- The northbound I-15 to southbound I-215 branch connector will be relocated easterly.

Cajon Boulevard Reconnection

The project will include the reconnection of Cajon Boulevard between Kenwood Drive and existing Devore Road by reconstructing Cajon Boulevard in approximately the same alignment (as shown in Figures L-3 and L-4 of the Notification). The Cajon Boulevard component of the project will require the following construction components:

- Reopen 3,500 feet of the abandoned segment of Cajon Boulevard southeast of the Kenwood Avenue intersection as a two-lane roadway.
- The existing Kenwood Avenue/Cajon Boulevard intersection will be improved to accommodate the reopening of Cajon Boulevard to the southeast.
- The two-lane reopened Cajon Boulevard will transition into a new alignment 3,500 feet southeast of Kenwood Avenue, curving to the south to parallel the existing I-15. As the roadway approaches Cajon Creek, it will make an easterly turn to pass under the existing I-15 bridges over Cajon Creek. The roadway under the freeway will follow an existing dirt road under the existing bridge over Cajon Creek. A retaining wall will be constructed in this area to protect the roadway from flooding. After passing the bridge area Cajon Boulevard will follow a curve to the northeast, reconnecting with existing Cajon Boulevard just east of the existing Devore Road/Glen Helen Parkway intersection. The existing Cajon Boulevard cul-de-sac northwest of Devore Road will be realigned to connect to Devore Road. To match existing conditions, Cajon Boulevard will be widened to four lanes (two lanes in each direction) as it approaches the Devore Road/Glen Helen Parkway intersection.
- Existing and proposed utilities that will parallel Cajon Boulevard will be placed in a utility corridor under or adjacent to the Cajon Boulevard alignment.
- The Cajon Boulevard reconnection will include 8-foot roadway shoulders in each direction.
- A 5-foot trail or sidewalk will be constructed adjacent to the retaining wall.

Local Roadway Changes

The project will include modifications to local roadways in order to accommodate the widened freeway cross-section as shown in Figure L-3 of the Notification.

Fill Slopes

The project will require fill slopes as shown in Figures L-2 through L-6 of the Notification.

Water Dewatering/Diversion

Water dewatering or diversion may be required during project construction.

No routine maintenance activities within any DFG jurisdictional areas are authorized by this Agreement

PROJECT IMPACTS

Existing native fish and wildlife resources the project could potentially substantially adversely affect include: BIRDS – red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), mourning dove (*Zenaida macroura*), white-throated swift (*Aeronautes saxatalis*), Anna's hummingbird (*Calypte anna*), Bell's sage sparrow (*Amphispiza bellii bellii*), Nuttall's woodpecker (*Picoides nuttallii*), American crow (*Corvus brachyrhynchos*), cliff swallow (*Petrochelidon pyrrhonota*), barn swallow (*Hirundo rustica*), California towhee (*Pipilo crissalis*), lark sparrow (*Chondestes grammacus*), wrenit (*Chamaea fasciata*), California quail (*Callipepla californica*), hooded oriole (*Icterus cucullatus*), northern mockingbird (*Mimus polyglottos*), California thrasher (*Toxostoma redivivum*); FISH – speckled dace (*Rhinichthys osculus*); MAMMALS – desert cottontail (*Sylvilagus audubonii*), San Diego pocket mouse (*Chaetodipus fallax fallax*), California ground squirrel (*Spermophilus beecheyi*), Botta's pocket gopher (*Thomomys bottae*), coyote (*Canis latrans*), kangaroo rat (*Dipodomys sp.*), gray fox (*Urocyon cinereoargenteus*); AMPHIBIANS –western toad (*Anaxyrus boreas*), California treefrog (*Pseudacris cadaverina*); REPTILES –western fence lizard (*Sceloporus occidentalis*), side-blotched lizard (*Uta stansburiana*), rosy boa (*Lichanura trivirgata*), two-striped gartersnake (*Thamnophis hammondi*); PLANTS – skunkbush sumac (*Rhus trilobata*), mugwort (*Artemisia douglasiana*), scalebroom (*Lepidospartum squamatum*), beavertail pricklypear (*Opuntia basilaris*), blue elderberry (*Sambucus mexicana*), coast live oak (*Quercus agrifolia*), Southern California black walnut (*Juglans californica var. californica*), white sage (*Salvia apiana*), California bush poppy (*Dendromecon rigida*), western sycamore (*Platanus racemosa*), Parry's spineflower (*Chorizanthe parryi var. parryi*), white-bracted spineflower (*Chorizanthe xanti var. leucotheca*), chamise (*Adenostoma fasciculatum*), Fremont cottonwood (*Populus fremontii*), red willow (*Salix laevigata*), arroyo willow (*Salix lasiolepis*), Robinson's peppergrass (*Lepidium virginicum var. robinsonii*), narrowleaf willow (*Salix exigua*), canyon live oak (*Quercus chrysolepis*), scrub oak (*Quercus berberidifolia*); and all other fish and wildlife resources in the project vicinity.

The adverse effects the project could have on the fish and wildlife resources identified above include the permanent loss of nesting/breeding and foraging habitat, and alteration of wildlife corridors. The construction of the project will result in permanent impacts to 12.331 acres of DFG jurisdictional areas consisting of 3.598 acres of impacts to unvegetated ephemeral streambed, 0.215 acre of riparian habitat, and 8.518 acres of alluvial fan sage scrub. The project will temporarily impact 6.765 acres of jurisdictional areas consisting of 0.504 acres of impacts to unvegetated ephemeral streambed, 0.017 acres of impacts to riparian habitat and 6.244 acres of impacts to alluvial fan sage scrub.

Total project impacts of 19.096 acres of jurisdictional areas are authorized under this Agreement. If any additional impacts are anticipated to riparian habitat and/or streambed, during project activities, Permittee shall submit an application for an amendment to this Agreement for authorization of those impacts.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times to present to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Take of Nesting Birds. Sections 3503, 3503.5, and 3513 of the FGC prohibit take of all birds and their active nests, including raptors and other migratory non-game birds (as listed under the Migratory Bird Treaty Act).

2. Avoidance and Minimization Measures

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

- 2.1 Biological Monitor. A DFG-approved biologist shall be onsite to monitor all activities that result in the clearing of sensitive habitat as well as grading, excavation, and/or other ground-disturbing activities in jurisdictional areas. **Permittee shall obtain DFG approval of the biological monitor(s) 90 days prior to initiation of any project activities in jurisdictional areas.** Permittee shall flag the limits of grading and the jurisdictional areas, perform necessary surveys, and take photographs during the construction process, as required by this Agreement. The biological monitor is required to halt construction activities if

threatened or endangered species are identified and notify the appropriate agencies immediately. The biological monitor shall have proven knowledge of the general area and experience handling sensitive species present in the project area.

- 2.2 Lighting Impacts. No lighting shall be allowed to impact jurisdictional areas, and the lighting and fencing for infrastructure adjacent to jurisdictional areas shall be designed or reviewed by a qualified biologist to allow wildlife to move within the open space and conserved areas without hindrance.
- 2.3 Speckled Dace Protection Plan. **No later than 90 days prior to the initiation of any project activities in jurisdictional areas,** a Speckled Dace Protection Plan shall be submitted to DFG for approval. The plan will be approved by a fisheries biologist with professional experience with speckled dace (*Rhinichthys osculus*). The plan shall include measures to avoid and minimize impacts to native fish when water is present in jurisdictional areas including dewatering, water diversion, and emergency provisions in case flooding events occur in the construction area.
- 2.4 Two-Striped Garter Snake Relocation Plan. **No later than 90 days prior to the initiation of any project activities in jurisdictional areas,** a two-striped garter snake (*Thamnophis hammondi*) relocation plan will be submitted to DFG for review and approval.
- 2.5 Bat Surveys. Using an appropriate combination of structure inspection, sampling, exit counts, and acoustic surveys, a DFG-approved biologist shall survey each structure and the surrounding area that may be impacted by the project for bats. **Permittee shall obtain DFG approval of the biologist(s) 90 days prior performing nesting bird surveys.** If bats are found using any bridges or culverts within the project area, the biologist shall identify the bats to the species level, and evaluate the colony to determine its size and significance. The bat survey shall include: 1) the exact location of all roosting sites (location shall be adequately described and drawn on a map), 2) the number of bats present at the time of visit (count or estimate), 3) each species of bat present shall be named (include how the species was identified), 4) the location, amount, distribution and age of all bat guano shall be described and pinpointed on a map, and 5) the type of roost: night roost (rest at night while out feeding) versus a day roost (maternity colony) must also be clearly stated. The results of the bat survey shall be submitted to DFG prior to the initiation of construction activities. Reports shall be mailed to DFG Inland Deserts Region at the address below under Contact Information. **Please reference SAA # 1600-2012-0055-R6.**

If any structures house a maternity colony of bats, construction activities shall not occur during the recognized bat breeding season (March 1 to October 1). This agreement does not authorize the take of adult or juvenile bats.

2.6 Bridge-dwelling Wildlife Protection. Permittee shall comply with the following bridge-dwelling wildlife protection measures if bridge-dwelling wildlife is detected in the bridges or culverts. All contractors, subcontractors, and employees shall also comply with these measures and it shall be the responsibility of Permittee to ensure compliance.

2.6.1 A DFG-approved biologist shall design and direct implementation of exclusionary devices designed to prevent birds and bats from utilizing bridges/culverts before construction activities begin. Exclusionary devices shall be installed on all bridges prior to the initiation of nesting season (February 15) and shall cover both the sides and bottom of each bridge. Passage underneath each bridge (through the channel) shall not be impeded. An acceptable example is bird block netting with $\frac{1}{2}$ " x $\frac{1}{2}$ " mesh or smaller. Exclusionary mesh netting must be thick plastic with no exposed overlap joints, applied tightly, regularly maintained, and shall only be installed seven days (or earlier) after a survey has been conducted. If bats are found using any bridge, roost entrances shall be fitted with one-way doors that allow exit but prevent entrance to encourage bats to relocate. One-way doors shall remain in place, and exclusionary mesh shall not be installed, until the biologist confirms the bats have relocated.

2.6.2 Bridge widening designs shall contain and be constructed with similar structural features to encourage continued roosting by bats. Replacement roosts should have comparable thermal stability and durability, the same or similar search image, and the same cryptic roosting conditions as the roosts they replace.

2.6.3 If a maternal colony (day roosting) exists, alternate bat roosting structures (i.e., light-weight concrete panels) shall be installed on bridges not anticipated to be impacted by construction within the vicinity of the project area. Construction and installation of roosting structures shall be supervised by a DFG-approved biologist. The total length of the roosting structures shall be no less than one-half the total length of the expansion joints that will be impacted during construction. The roosting structures shall remain in place following construction and shall not be removed. **Alternate bat roosting structures shall be installed as soon as possible.** A report on the construction, placement, and timing of installation of the roosting structures shall be submitted to DFG for review and concurrence. **Please reference SAA # 1600-2012-0055-R6**

2.6.4 No gasoline or diesel engines shall be stored or operated under any bridge, unless the bridge has been cleared of all bats.

2.6.5 All night work (dusk until dawn) in the vicinity of the structure (i.e., roadway widening, resurfacing, lighting, land-closure setup, etc.) shall have

concurrence from DFG and the biological monitor prior to any work or scheduling of any work between March 1 and October 1.

- 2.6.6 The dimensions of existing hinges/expansion joints shall remain the same during and after construction, if feasible. Permittee shall notify DFG if existing dimension can not be maintained.
- 2.6.7 Construction activities on, under, or around, or within close proximity to bridges/culverts will be limited to October 1 to March 1, unless all bats have been excluded from the structure and concurrence has been received from DFG.
- 2.6.8 Vegetation removal around structures shall be minimized.
- 2.6.9 If any day roosting bats are discovered during construction activities all work shall stop on, under, around, or within 500-feet of the structure.
- 2.7 ESA Fencing. The biological monitor shall establish Environmentally Sensitive Area (ESA) fencing around all jurisdictional areas identified in the jurisdictional delineation that will be avoided by the project. No construction work shall be allowed in areas limited by the ESA fencing. ESA fencing shall be inspected daily by the biological monitor, or project personnel working under the direction of the biological monitor.
- 2.8 Nesting Bird Surveys. Permittee shall not remove vegetation from the project site during the period of March 15 through September 15 to avoid impacts to nesting birds. If project construction cannot be avoided during the period of March 15 through September 15, Permittee shall have a DFG-approved biologist(s) survey all potential nesting vegetation within the project site for nocturnal and diurnal nesting birds, prior to commencing project activities (including construction and/or site preparation). **Permittee shall obtain DFG approval of the biologist(s) 90 days prior performing nesting bird surveys.** Surveys shall be conducted at the appropriate time of day, no more than three days prior to vegetation removal and/or disturbance. Documentation of surveys and findings shall be received by DFG prior to conducting project activities. **Please reference SAA # 1600-2012-0055-R6.** If no nesting birds were observed, project activities may begin. If an active bird nest is located, the nest site shall be fenced a minimum of 200 feet (500 feet for endangered, threatened, and candidate species; species of special concern; and all raptors) in all directions, and this area shall not be disturbed until after September 15 and until the nest becomes inactive. If threatened or endangered species are observed in the area, no work shall occur during the breeding season (March 15 through September 15) to avoid direct or indirect (noise) take of listed species.

2.9 Burrowing Owl. Prior to the initiation of any project activities in jurisdictional areas, Permittee shall conduct a burrowing owl habitat assessment. The assessment shall be conducted by a biologist knowledgeable of burrowing owl habitat, ecology, and field identification of the species and burrowing owl sign. The assessment shall consist of walking the project site to identify the presence of burrowing owl habitat. Burrowing owls use a variety of natural and modified habitats for nesting and foraging that is typically characterized by low growing vegetation. Burrowing owl habitat includes, but is not limited to: native and nonnative grassland, interstitial grassland with shrub lands, shrub lands with low density shrub cover, golf courses, drainage ditches, earthen berms, unpaved airfields, pastureland, dairies, fallow fields, and agricultural use areas. Burrowing owls typically use burrows made from fossorial (adapted for burrowing or digging) mammals such as ground squirrels or badgers, and often manmade structures such as earthen berms; cement culverts; cement, asphalt, rock, or wood debris piles; or openings beneath cement or asphalt pavement. A report summarizing the results of the habitat assessment shall be submitted to DFG within 30 days following the completion of the assessment. Please note that burrowing owl habitat assessments dated more than one year prior to the construction start date will not be accepted by DFG. If no suitable habitat is found on-site (i.e., if the site is completely covered in chaparral habitat, cement, or asphalt), no additional surveys are necessary. If suitable habitat is found onsite, burrowing owl surveys must be conducted by a qualified biologist in accordance with the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game, March 7 2012). Survey results shall be submitted to DFG within 30 days of completion of surveys. If burrowing owls are found onsite, the Permittee shall contact DFG for further guidance prior to commencing project activities.

DFG recommends that focused burrowing owl surveys be conducted over all potential suitable habitat within the entire project site, even areas outside State jurisdiction pursuant to Section 1600 of the FGC. The burrowing owl is protected under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13) and Sections 3503, 3503.5 and 3513 of the FGC, which prohibit take of all birds and their nests, including raptors. Therefore, it is the responsibility of the Permittee to ensure compliance with these laws for the entire project site.

2.10 Nonnative plant species. DFG recommends the use of native plants to the greatest extent feasible in the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels. Permittee shall not plant, seed, or otherwise introduce invasive nonnative plant species to the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels (minimum 100 foot setback from open space areas and 150 foot setback from stream channels and wetland/riparian mitigation sites). Invasive nonnative plant species not to be used include those species listed on the "California Invasive Plant Inventory, February 2006" and the "February 2007 Inventory Update", (which are updates to Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in

California as of October 1999"). This list includes: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, bush lupine, sweet alyssum, English ivy, French broom, Scotch broom, Spanish broom, and pepperweed. A copy of the complete list can be obtained by contacting the California Invasive Plant Council by phone at (510) 843-3902, at their website at www.cal-ipc.org, or by email at info@cal-ipc.org.

- 2.11 Best Management Practices. Permittee shall actively implement best management practices (BMPs) to prevent erosion and the discharge of sediment in to streams and lakes during project activities. BMPs shall be monitored daily and repaired if necessary to ensure maximum erosion and sediment control. All fiber rolls, straw waddles, and/or hay bales utilized within and adjacent to the project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.
- 2.12 Pollution and Litter. Permittee shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws and it shall be the responsibility of Permittee to ensure compliance.
- 2.12.1 Permittee shall not allow water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities to enter a lake, streambed, or flowing stream or be placed in locations that may be subjected to high storm flows.
- 2.12.2 Spoil sites shall not be located within a lake, streambed, or flowing stream or locations that may be subjected to high storm flows, where spoil shall be washed back into a lake, streambed, or flowing stream where it will impact streambed habitat and aquatic or riparian vegetation.
- 2.12.3 Raw cement/concrete or washings thereof, asphalt, paint, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the State. These materials, placed within or where they may enter a lake, streambed, or flowing stream by Permittee or any party working under contract or with the permission of Permittee, shall be removed immediately.
- 2.12.4 No broken concrete, cement, debris, soil, silt, sand, bark, slash, sawdust, rubbish, or washings thereof, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or be placed where it may be washed

by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any lake, streambed, or flowing stream.

2.12.5 No equipment maintenance shall be done within or near any lake, streambed, or flowing stream where petroleum products or other pollutants from the equipment may enter these areas under any flow.

3. Mitigation Measures

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

- 3.1 Habitat Restoration - Onsite. **Within 30 days of project completion**, Permittee shall restore all 6.765 acres of temporary impacted areas, by recontouring to pre-existing grade and contours, and seeding/planting with California local native species that were present on-site. The plant palette shall be approved by a biologist and shall include plant species (including subspecies) that are currently present within the vicinity of each affected jurisdictional feature. The plant palette shall be submitted to DFG for review and concurrence **at least 30 days prior to seeding/planting**. Existing topsoil from known locations of sensitive plant populations will be salvaged and used in the restoration areas if feasible following Habitat Mitigation and Monitoring Plan (HMMP) stipulations and conditions listed in Section 4.1 of this Agreement.
- 3.2 Riparian Habitat Restoration – Offsite. Permittee shall mitigate permanent impacts to 0.215 acres of DFG jurisdictional riparian areas either (a) by restoring no less than 1 acre of riparian habitat within the Cajon Creek area; or (b) by providing sufficient funds to the Santa Ana Watershed Association In-lieu Fee Program for the removal of 1 acre of nonnative plants within the upper Santa Ana Watershed, with proof of purchase provided **to the Department no later than 90 days prior to initiation of any project activities in jurisdictional areas**. If option (a) is selected, Permittee shall follow HMMP stipulations and conditions listed in Section 4.1 of this Agreement. Permittee acquired 75.7 acres of credits from the Cajon Creek Mitigation Bank. **No later than 120 days after the execution of this Agreement and no later than 60 days prior to initiation of any project activities** a jurisdictional delineation illustrating DFG jurisdictional areas no more than one year old shall be provided to DFG in order to demonstrate that the 75.7 acres of credits acquired in the Cajon Creek mitigation bank contain at least 1 acre of DFG jurisdictional riparian habitat. If Permittee demonstrates that no less than 1 acre of DFG jurisdictional areas are present within the acquired mitigation no other mitigation will be required pursuant to Section 3.2 of this Agreement.

- 3.3 Alluvial Fan Sage Scrub and ephemeral unvegetated channel mitigation – Offsite. Permittee shall mitigate permanent impacts to 8.519 acres of DFG jurisdictional alluvial fan sage scrub areas by acquiring no less than 42.5 acres of alluvial fan sage scrub areas within DFG jurisdiction and shall mitigate permanent impacts to 3.598 acres of DFG jurisdictional ephemeral unvegetated channel by acquiring no less than 7.196 acres of ephemeral unvegetated channel or similar habitat as approved by DFG. Permittee acquired 75.7 acres of credits from the Cajon Creek Mitigation Bank. **No later than 120 days after the execution of this Agreement and no later than 60 days prior to initiation of any project activities a jurisdictional delineation illustrating DFG jurisdictional areas no more than one year old shall be provided to DFG in order to demonstrate that the 75.7 acres of credits acquired in the Cajon Creek mitigation bank contain no less than 7.196 acres of habitat suitable for mitigation of impacts to ephemeral streambed and no less than 42.5 acres of alluvial fan sage scrub.** Permittee shall be responsible for the acquisition and conservation in perpetuity of additional DFG approved Alluvial Fan Sage Scrub and ephemeral unvegetated streambed **no later than 180 days after the execution of this Agreement** if the mitigation credits acquired do not contain sufficient jurisdictional areas.
- 3.4 Plant Palette. All plant species installed within temporary impact areas shall include only **local California native** container plants, cuttings, and/or seed mix, and shall be typical of the existing native plant species present in the existing riparian areas within and adjacent to the project site. DFG recommends that plant material be installed between October 1 and April 30 to maximize the benefits of the winter rainy season.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 Habitat Mitigation and Monitoring Plan (HMMP). Permittee shall submit to DFG for review and approval a HMMP for the 6.765 acres habitat restoration site. If, pursuant to section 3.2 of this agreement, Riparian Habitat Restoration option (b) is selected than the 1-acre riparian restoration site shall be included in the HMMP. At a minimum, the HMMP shall include the following information: (a) a description of the existing physical conditions of the proposed creation or restoration site, including water resources and habitat types, and a map that identifies the location of the site; (b) a plan for the preparation of the creation or restoration site, including the removal of nonnative plant species, non-wetland/riparian plant species, and grading; (c) a local California native plant palette; (d) a planting plan, including monitoring and maintenance measures and a timeline; (e) an irrigation plan; (f) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the creation or restoration site and a nonnative plant removal plan; and (g) success standards with contingency measures. Monitoring and maintenance of the

creation or restoration site shall be conducted annually for a minimum of five years, or until DFG determines the mitigation site is successful.

- 4.2 **Monthly Reports.** Permittee shall submit monthly construction status reports to DFG. These reports will disclose the status of the impacts to DFG jurisdictional areas per individual jurisdictional features. Any increase on the impact areas to jurisdictional features will require a written approval from DFG prior to construction begins within each individual feature and may require an amendment of this Agreement.
- 4.3 **Annual Reporting.** An annual report shall be submitted to DFG for a minimum of five years following plant installation or until DFG deems the 6.765 acres habitat restoration sites and the 1-acre riparian site (if this option is selected) are successful. At a minimum, this report shall include the following information: (1) a description of the mitigation activities conducted during the previous year, including: (a) site preparation, (b) plant installation and an overview of the planting effort, (c) the number by species of plants replaced or naturally recruited, and (d) when the activities were conducted; (2) current site conditions, including: (a) the percent survival, percent cover, and height of both tree and shrub species planted, and (b) the methods used to assess these parameters; and (3) information regarding nonnative plant removal, including: (a) the methods used for removal, (b) the amount removed and/or treated, (c) the frequency and timing of removal and treatment, (d) disposal specifics, and (e) a summary of the general successes and failures or failure of the nonnative removal plan. The report shall also include wildlife species observed at the creation site during monitoring surveys including sensitive species and/or listed species. Photos from designated photo stations shall be included. **The first annual report is due to DFG no later than twelve (12) months following plant installation.**
- 4.4 **Notification to CNDDDB.** If any sensitive species are observed on or in proximity to the project site, or during project surveys, Permittee shall submit California Natural Diversity Data Base (CNDDDB) forms and maps to the CNDDDB within five working days of the sightings, and provide the regional DFG office with copies of the CNDDDB forms and survey maps. The CNDDDB form is available online at: www.dfg.ca.gov/whdab/pdfs/natspec.pdf. **This information shall be mailed within five days to:** DFG Natural Diversity Data Base, 1807 13th Street, Suite 202, Sacramento, CA 95814, Phone (916) 324-3812. A copy of this information shall also be mailed within five days to DFG Inland Deserts Region at the address below under Contact Information. **Please reference SAA # 1600-2012-0055-R6.**
- 4.5 **Notification of Start of Construction.** Permittee shall notify DFG, in writing, at least five (5) days prior to initiation of project activities in jurisdictional areas, and at least five (5) days prior to completion of project activities in jurisdictional areas. Notification should be mailed to DFG Inland Deserts Region at the address below under Contact Information. **Please reference SAA # 1600-2012-0055-R6.**

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

Scott Quinnell
California Department of Transportation
464 West 4th Street, 6th Floor
San Bernardino, CA 92401
(909) 383-6936
scott.quinnell@dot.ca.gov

To DFG:

Department of Fish and Game
Inland Deserts Region
Lake and Streambed Alteration Program
Attn: Mr. Juan Lopez Torres
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Notification #1600-2012-0055-R6
(909) 481-2945 (fax)
jtorres@dfg.ca.gov

LIABILITY

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

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

SUSPENSION AND REVOCATION

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

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

ENFORCEMENT

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

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

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

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

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

AMENDMENT

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the

corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

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

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

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

EFFECTIVE DATE

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at:
http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on **August 8, 2017**, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

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

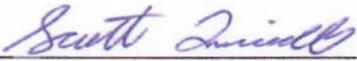
AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR CALIFORNIA DEPARTMENT OF
TRANSPORTATION**

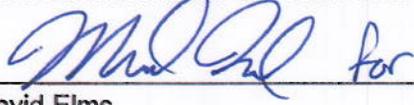


Scott Quinnell

8-10-12

Date

FOR DEPARTMENT OF FISH AND GAME



David Elms
Environmental Program Manager

8/10/2012

Date

Prepared by: Juan Lopez Torres
Environmental Scientist