



AGENDA

Environmental Oversight Committee

Committee Members

*Lisa Bartlett, Chair
Melanie Schlotterbeck, Vice Chair
Charles Baker, Caltrans District 12
Dr. David Chapel, Grand Jury
Association of OC
Lori Donchak, OCTA Board of Directors
David Mayer, CA Dept. of Fish & Wildlife
Derek McGregor, DMC Engineering
Veronica Li, US Army Corps of Engineers
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish & Wildlife
Service
Anthony Villa, Taxpayers Oversight
Committee Representative
John Walsh, CA Wildlife Conservation
Board*

*Orange County Transportation Authority
Conference Room 154
600 South Main Street
Orange, California*

Wednesday, October 26, 2016 at 2:30 p.m.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

1. Welcome

2. Pledge of Allegiance

3. Approval of August 1, 2016 Minutes

4. Final Natural Community Conservation Plan/Habitat Conservation Plan and Final Environmental Impact Report/Statement

*Dan Phu, OCTA
Lesley Hill, OCTA
Monte Ward, OCTA Consultant*

Recommendations

A. Endorse the Final Environmental Impact Report that has been completed in accordance with the California Environmental Quality Act, that the Environmental Oversight Committee reviewed and considered the information in the Final Environmental Impact Report, and that it represents the Orange County Transportation Authority's independent analysis and judgment.

B. Endorse the Final Natural Community Conservation Plan/Habitat Conservation Plan.



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- C. *Endorse the Implementing Agreement, between the Orange County Transportation Authority, United States Fish and Wildlife Service, and the California Department of Fish and Wildlife, for the implementation of the Natural Community Conservation Plan/Habitat Conservation Plan.*

5. Harriett Wieder Restoration Project Update

Lesley Hill, OCTA

The Bolsa Chica Conservancy (BCC) presented a status update to the Environmental Oversight Committee (EOC) in late 2015. The EOC requested that staff provide monthly status updates and that BCC return every three months with a progress report. A status report on the project will be provided by the BCC, which includes progress to date.

6. Chino Hills State Park and North Coal Canyon Restoration Projects Update

Lesley Hill, OCTA

In 2012, the Orange County Transportation Authority (OCTA) funded two habitat restoration projects during the second round of funding under the Measure M2 (M2) Environmental Mitigation Program's (EMP), which were sponsored by the California Department of Parks and Recreation (State Parks). The Chino Hills State Park restoration project consisted of approximately 15 acres of willow riparian and oak-walnut woodland habitat and six acres of cactus scrub habitat, with a project budget of \$193,000. The North Coal Canyon restoration project consisted of 5.5 acres of coastal sage scrub (CSS), with a project budget of \$475,000. State Parks staff will present an update to the two projects, which will include a proposed revision to the Chino Hills State Park project. The budget will remain the same as the original Board allocation amount.

Recommendation

- A. *Endorse the California Department of Parks and Recreation's revised scope of work as described herein for the Chino Hills State Park Restoration Project.*

7. Trabuco Canyon Company, LLC: Residual Parcel Update

Dan Phu, OCTA

OCTA acquired the Ferber Ranch from the Trabuco Canyon Company, LLC (TCC) in May 2011. During this transaction, two residual parcels were set aside and retained by TCC. TCC has offered these two parcels to OCTA for purchase. During previous EOC meetings, OCTA staff provided a report of the re-evaluation of these parcels utilizing the Board-approved criteria developed for the OCTA M2 EMP acquisition property process. Since early July 2016, the parcel located on the west side (Hickey Canyon) has been sold. The parcel on the east side (Rose Canyon) is still available. A status update on the appraisal process will be provided to the EOC.



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8. O'Neill Oaks Preserve Hike and Ferber Ranch Preserve Equestrian Ride

Marissa Espino, OCTA

On Saturday, October 29th, OCTA will host a guided hike at the O'Neill Oaks Preserve in Trabuco Canyon. An equestrian ride will take place at the Ferber Ranch Preserve in Trabuco Canyon on the same day. Staff will provide a brief summary about these public events.

9. Public Comments

Members of the public may address the EOC regarding any item. Please complete a speaker's card and submit it to the EOC or notify the EOC the item number on which you wish to speak. Speakers will be recognized by the Chair at the time the agenda item is to be considered. A speaker's comments shall be limited to three (3) minutes.

10. Committee Member Reports

11. Next Meeting – TBD

12. Adjournment

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Minutes

Measure M2 Environmental Oversight Committee

Committee Members

Lisa Bartlett, Chairman

Melanie Schlotterbeck, Vice Chair

Charles Baker, Caltrans District 12

Dr. David Chapel, Grand Jury Assoc. of O.C.

Lori Donchak, Board of Directors

Veronica Li, US Army Corp of Engineers

David Mayer, CA Dept. of Fish & Wildlife

Derek McGregor, DMc Engineering

Dan Silver, Endangered Habitats League

Jonathan Snyder, US Fish & Wildlife Service

Anthony Villa, Taxpayers Oversight Comm.

Orange County Transportation Authority

500 South Main Street, Room 07

Orange, California

Wednesday August 17, 2016

2:30 p.m.

Member(s) Absent

John Walsh, CA Wildlife Conservation Board

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

1. Welcome

Chairman Lisa Bartlett called the Environmental Oversight Committee (EOC) meeting to order at 2:30 p.m.

2. Pledge of Allegiance

Vice-Chairman Melanie Schlotterbeck led the Pledge of Allegiance.

3. Approval of June 1, 2016 Minutes

Chairman Lisa Bartlett asked if there were any additions or corrections to the June 1, 2016 EOC minutes. A motion was made by Melanie Schlotterbeck, seconded by Lori Donchak and passed unanimously to approve the June 1, 2016 EOC meeting minutes as presented.

4. Harriett Wieder Restoration Projects Update

Lesley Hill provided a brief status update on the Harriett Wieder Restoration Project.

Lori Donchak said things look hopeful. Lesley agreed.

5. M2 Revenue Forecast Update

Dan Phu introduced Rodney Johnson, OCTA Deputy Treasurer, who presented an updated forecast on the M2 sales tax.

6. EMP Endowment Procurement Update

Rodney Johnson, OCTA Deputy Treasurer, provided an update on the EMP Endowment Procurement.

Dan Phu said once the agenda and staff report is finalized for the OCTA Finance & Administration (F&A) Committee, he would send a link to the EOC members so they can see the final recommendations.

Lori Donchak asked how committee members should relay their comments. Dan said Director of the contracts department is here today if there are any questions or committee members can relay comments to staff as well.

Lori asked why the item did not come to the EOC before it goes to the OCTA Board. Dan said the mission of this committee is to oversee and administer the technical recommendations. The EOC reviewed and gave input on the scope of work.

Lori asked about the make-up of the finalist. Rodney said all of the finalists were community foundations that are active in this area. He said initially there was a financial firm interested, but their proposal did not stack-up to the other proposals.

Lisa Bartlett asked if the EOC would be seeing the scoring sheets. Rodney said they would be available with the final report.

Lori said she appreciates that the link to the reports will be sent out so that this committee could see the information.

Melanie Schlotterbeck asked what time the F&A Committee meets on August 24th. Rodney said it is at 10:30 am. Melanie said she is looking forward to seeing the final report.

7. Trabuco Canyon Company, LLC: Residual Parcels Sale

Dan Phu gave an overview of the project. Lesley Hill gave a recap/presentation of the tours that took place in July.

Melanie Schlotterbeck thanked staff for the update and photos. She said the intent of the Measure M2 funds was not to set up staging areas for access, but there are other funding sources that could help out.

Melanie believes the appraisal should be moved forward even if 60 percent is native and the other part is non-native. She says she feels it is the missing piece. She asked if there are appraisers on standby. Dan said OCTA has appraisers on a “bench” for when we need to use them. He said the process is not just the appraisals by the appraisers, but there is an appraisal review, an environmental site assessment, and finally title and escrow. The estimated cost of this package is roughly \$30,000.

Melanie asked if this includes the title review. Dan said the preliminary title report is pulled as a part of the appraisal process. He said if we do get into successful negotiation and acquisition, then there’s another title pulled as part of the title and escrow process.

Melanie asked is there a way to get an estimate on clean-up costs. She said we may not want to keep some of the amenities that are on the site. Dan said it is a possibility. He said much of the work is physical hauling and OCTA has a contractor that can probably give us a “back of the envelope” estimate on the costs in general for hauling. Melanie believes it would be useful information because this is a key difference between other projects.

Melanie asked if the barn on the property has any historical significance. Dan said as part of the acquisition of the other properties we did retain a cultural consulting firm. He said if it is the desire of this committee to hire a cultural consultant, it would be an extra cost. He said Cal State Fullerton has a historical structures database for Orange County. He said we would need to hire a qualified architectural historian, to assess this structure using the database. Melanie said this is useful information the committee may need in the future. She says it could be a potential problem if OCTA has to maintain the structure.

Derek McGregor asked if the phase one assessment of hazardous materials comes before the appraisal. Dan said they happen concurrently, by separate professionals.

Derek asked what happens if the appraisal comes in higher than expected. Dan said the evaluation is speculative. He said the committee can ask to hire an appraiser before OCTA makes a bid. He said Trabuco Canyon, LLC (TCC) is aware the property needs to be appraised by an independent appraiser.

Monte Ward said if we get to the point of offers and evaluations, it becomes part of the OCTA Board closed session. He said when it gets down to the actual discussions, this committee and the TCC will be involved.

Derek asked how long this piece of property has been up for sale. Dan said since late 2015/early 2016.

Derek asked if the TCC is considering other offers at this time. Dan said we do not know who else has indicated interest in the property or their degree of seriousness, but the TCC has indicated there are others interested.

Derek said there are some deadlines set in the information and he wondered if those were set to get us moving. Dan said he does not have that information, but the TCC has shown a willingness to work with OCTA.

Derek asked why this piece is separate from the original holding; why was it divided into three pieces. Dan said originally the Ferber property was 454 contiguous acres owned by the TCC. They purchased it from the Ferber family in the early 2000s. The TCC intended to develop the property, but the property was leased to two stable operators in the interim. When the TCC decided not to develop the property OCTA was not interested in the property due to the stable operations. Then the TCC carved out portions to sell to OCTA that did not include operations. Now the operations have stopped and this final piece of the property is available.

Dan Silver said he was neutral on whether to purchase the property or not before he went on the tour. He said when he was done with the tour he believed it would be a good fit to build on our previous investments.

Dan Silver asked about the offer. He asked if the TCC set the November deadline. He worries OCTA will not be ready by November. Dan Phu said it is not exclusive to OCTA, but those are the parameters they want to start with and we would need to respond to them by September 1.

Dan Silver asked if the EOC gave this approval, could we ask the TCC to give us some time exclusively through December so that we don't have \$30,000 at risk. Dan Phu said it is a possibility. He said there are always some risks. Monte Ward said we would have a clearer appraisal before November. He said OCTA would have a clearer financial outlook at that time as well. Monte said Dan Silver's concerns could be addressed at that time.

Lori Donchak said she expects OCTA will be going through a belt-tightening and that it will not be business as usual across the board due to lack of sales tax income. She wonders if we can go forward with this purchase knowing that we will be lacking in funds in the future.

Lori Donchak asked if there are others that would want to help us with some matching funds regarding the acquisition of this parcel. She said this is a strategic/exciting parcel, but wonders if OCTA can commit to it at this point.

Dan Phu said OCTA received \$600,000 in Section 6 Fish and Wildlife grants through US Department of Interior for the development of the conservation plan in 2011/12. He said after the conservation plan, there is another component that allows OCTA to go

after money once the conservation plan is submitted. He said there are external opportunities depending on where you are in the program.

Dan Phu said, as far as external opportunities, we continue to discuss with other environmental entities ideas on how they can help us with management opportunities and maybe we can see how we can leverage their help.

Lori Donchak asked at what point in the process those conversations would happen. Dan Phu said we can engage in conversations now, but we need to wait until OCTA have a clearer financial picture before committing. He said OCTA needs to be careful because the funding not coming from Measure M would not give us mitigation credits.

Monte Ward said the timing on this project is good because OCTA will know the financial outlook by the end of October. He said staff needs that financial information before giving the committee exact numbers and guidance. He believes this committee will be able to make a timely decision with the appropriate information.

A motion was made by Melanie Schlotterbeck, seconded by Derek McGregor and passed unanimously to begin the appraisal process to consider acquiring the Trabuco Canyon Company, LLC residual parcel.

8. Aliso Canyon Preserve Hike and Ferber Ranch Preserve Equestrian Ride

Marissa Espino provided an overview of the Aliso Canyon Preserve hike on August 13. She said there will be another Ferber Ranch equestrian ride on August 27th. She said there will be another round of hikes and rides in October as well.

Melanie Schlotterbeck asked how many people attended. Marissa said 25 people attended.

9. Public Comments

There were no public comments.

10. Committee Member Reports

Melanie Schlotterbeck, who works with the non-profit Friends of Harbor, Beaches, and Parks, said they are a founding member of the Safe Trails Coalition. She said they did a presentation with the Coastal Greenbelt Authority introducing them to the Aliso Canyon property and acknowledging some of the upcoming OCTA activities. She said they were excited about the property and thankful that OCTA is involved locally. She said they offered to set-up a meeting for the public after the Request for Proposal (RFP) was released.

11. Next Meeting – September 7, 2016

12. Adjournment

The meeting adjourned at 3:21 p.m.

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October 26, 2016 Environmental Oversight Committee
Final Natural Community Conservation Plan/Habitat Conservation Plan and Final
Environmental Impact Report/Statement

Overview

Measure M2 includes a program to deliver comprehensive mitigation for the environmental impacts of freeway projects in exchange for streamlined project approvals from the California Department of Fish and Wildlife, and the United States Fish and Wildlife Service. The Final Environmental Impact Report/ Environmental Impact Statement, Final Natural Community Conservation Plan/Habitat Conservation Plan, and implementing agreement demonstrate that sufficient conservation is being provided to address the biological mitigation related to the Measure M2 freeway projects. Endorsement is requested for the Final Environmental Impact Report/Environmental Impact Statement, Final Natural Community Conservation Plan/Habitat Conservation Plan, and implementing agreement.

Recommendations

- A. Endorse that the Final Environmental Impact Report has been completed in accordance with the California Environmental Quality Act, that the Environmental Oversight Committee reviewed and considered the information in the Final Environmental Impact Report, and that it represents the Orange County Transportation Authority's independent analysis and judgment.
- B. Endorse the Final Natural Community Conservation Plan/Habitat Conservation Plan.
- C. Endorse the implementing agreement, between the Orange County Transportation Authority, United States Fish and Wildlife Service, and the California Department of Fish and Wildlife, for the implementation of the Natural Community Conservation Plan/Habitat Conservation Plan.

Background

The Orange County Transportation Authority's (OCTA) Environmental Mitigation Program (Mitigation Program) provides for allocation of at least five percent of the total Measure M2 (M2) freeway budget for comprehensive environmental mitigation for impacts resulting from the 13 related freeway improvement projects. The Mitigation Program was approved by Orange County voters under the M2 half-cent sales tax for transportation improvements in November 2006. The Mitigation Program was designed to streamline the permit process and minimize biological resources permitting delays.

In August 2007, the OCTA Board of Directors (Board) approved a five-year M2 Early Action Plan (EAP), covering the years 2007 to 2012, to advance the implementation of key M2 projects, including the Mitigation Program. As part of the EAP, approximately \$55 million was estimated to be available for the Mitigation Program. This allocation was to be used for property acquisitions, habitat restoration, land management, and support of the program. Support of the program included the preparation and

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Final Natural Community Conservation Plan/Habitat Conservation Plan and Final
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implementation of the M2 Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), along with an Environmental Impact Report/Environmental Impact Statement (EIR/EIS). The M2 NCCP/HCP is the mechanism by which comprehensive environmental mitigation is accomplished. This mechanism offers early and higher-value environmental benefits such as habitat protection, connectivity, and resource preservation in exchange for streamlined and up-front biological resource permits for the freeway projects.

In August 2008, OCTA, the California Department of Transportation (Caltrans), the California Department of Fish and Wildlife, and the United States Fish and Wildlife Service (collectively referred to as Wildlife Agencies) collaboratively developed criteria to assist in the evaluation of potential mitigation opportunities. The acquisition, restoration, and management criteria were vetted by the Environmental Oversight Committee (EOC) and approved by the OCTA Board in fall 2008. As directed in the M2 Ordinance, the EOC, a subcommittee created by the Board, is responsible for making recommendations to the Board on matters related to the Mitigation Program. The aforementioned criteria considered biological factors (i.e., biological values that off-set impacts of freeway improvement projects and contribute to achieving the biological goals and objectives of the NCCP/HCP) and non-biological factors (i.e., timing, cooperation, management costs and constraints).

In November 2009, the Board approved master and planning agreements to establish a process, roles, responsibilities, and commitments for the preparation of an NCCP/HCP, along with a Draft EIR/EIS. In mid-2010, the Board approved the initiation of the NCCP/HCP planning process. Pursuant to the M2 Ordinance, the Mitigation Program was implemented under a master agreement between OCTA, Caltrans, and the Wildlife Agencies. The M2 NCCP/HCP covers mitigation needs for the biological permitting processes. Under a separate but equally important process, staff is working concurrently with the State Water Resources Control Board, the Regional Water Quality Control Board, and the Army Corps of Engineers to develop a similar programmatic process to address state and federal Clean Water Act permits.

As part of OCTA's NCCP/HCP mitigation commitment, seven properties (Preserves), totaling approximately 1,300 acres have been acquired, along with the funding of 11 habitat restoration projects, totaling approximately 350 acres. Attachment A depicts the location of the M2 Preserves and restoration projects.

Pursuant to the NCCP/HCP, the Wildlife Agencies required an endowment be established to pay for the long-term management of the Preserves. In October 2014, the Board approved a non-wasting endowment target of approximately \$34.5 million. This commitment demonstrated to the Wildlife Agencies that OCTA has the financial capacity to fund the management of these Preserves. In September 2016, the Board approved staff's recommendation to retain the California Community Foundation to establish this endowment. OCTA will make deposits to the endowment over a ten to 12-year period. It

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may also take an additional one to three years of interest accumulation to generate sufficient revenues to obtain a fully funded endowment.

As part of the NCCP/HCP approval process, Preserve-specific resource management plans (RMPs) are required by the Wildlife Agencies. The RMPs address fire protection, safe public access (where it is compatible to the biological goals/objectives), and outline the management and monitoring criteria for each Preserve. The Wildlife Agencies do not require the RMPs to be released to the public for review and do not require them to be prepared until after the NCCP/HCP is approved. However, recognizing the importance of public access, five of the seven RMPs (Trabuco and Silverado Canyon Preserves) were released for public review from November 2015 to February 2016. Based on the specific requests for public access, staff engaged stakeholders to participate in focused workshops in relation to public access for the Trabuco and Silverado Canyon RMPs. If the Board approves the NCCP/HCP and associated documents, staff anticipates completion of the RMPs (including MacPherson and Aliso Canyon) in 2017.

Discussion

In January 2014, the Board authorized public release of the Draft NCCP/HCP and associated Draft EIR/EIS. These documents were released for a 90-day public review period from November 2014 through February 2015. Two community meetings were held in November and December 2014, and the documents were available at the OCTA Administrative Offices, local libraries, and via the internet. The analyses in these documents determined that OCTA has largely met the mitigation needs for the M2 freeway projects through the Preserves and through the funding of restoration projects.

OCTA received a total of 48 comment letters on the Draft M2 NCCP/HCP and Draft EIR/EIS during the public review period, which are summarized below. The complete responses to all of the comments received can be found in Chapter 9 of the EIR/EIS (Attachment B).

- **Commentary/Editorial** – comments reflected the support or opposition of the conservation efforts. Some commenters affirmed their individual or group's endorsement of the NCCP/HCP and requested additional clarifications on the document. The documents have been updated to reflect requested clarifications, as appropriate.
- **Technical NCCP/HCP** – some of the comments were related to the analysis methods that were used in the NCCP/HCP and the degree to which best available scientific information was included in the NCCP/HCP. Responses clarified that the NCCP/HCP was developed in collaboration with the Wildlife Agencies and ultimately subject to the approval of the Wildlife Agencies. These comments resulted in revisions to the NCCP/HCP to include more recent scientific information. These revisions, however, did not result in a change to the overall conservation strategy of the NCCP/HCP.

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- Trails/Public Access – the majority of the comments (60 percent) were specifically focused on the topic of trails and public access in the OCTA Preserves and referred to the historical access and recreational uses on some of the OCTA Preserves, specifically those that are located in the Trabuco-Canyon area. These comments also referenced regional trail networks and connections that intersect with OCTA's Preserves and requested that OCTA maintain access to these areas. Responses clarified that the Preserves did not have public access under previous private ownership. Responses also clarified that the NCCP/HCP included guidelines and requirements for public access, which is addressed in more specific detail through individual RMPs.

The corresponding implementing agreement (IA) is an appendix to the NCCP/HCP. The purpose of this IA is to clarify the provisions of the NCCP/HCP and the processes the participants intend to follow to ensure successful implementation of the NCCP/HCP (Attachment C) in accordance with the state and federal permits and applicable law. The participants in the IA include OCTA and the Wildlife Agencies (Attachment D).

Next Steps

If the EOC endorses the NCCP/HCP and associated documents, OCTA staff will present the Final NCCP/HCP and associated documents to the Regional Planning and Highways Committee for approval on November 7, 2016.

Once the NCCP/HCP and associated documents are approved by the Board, OCTA staff will focus on the completion of the RMPs, executing conservation easements on the Preserves, coordinating with the endowment establishment fund manager, and work on developing strategies and criteria for a long-term land manager(s). Going forward, the following major tasks will be completed to fulfill the commitments of the NCCP/HCP:

- Designate appropriate long-term land managers for the Preserves.
- Identify potential entities to assume the title of the Preserves.
- Identify and fund new restoration projects to satisfy additional mitigation requirements as set forth in the NCCP/HCP.
- Develop a process for the M2 freeway projects during the implementation phase to utilize the NCCP/HCP mitigation.
- Develop annual reports to document the consistency of the M2 freeway projects, M2 Preserve activities, status of the M2 restoration projects, and summary of endowment budgets.

Summary

M2 includes a Mitigation Program that provides funding for programmatic mitigation to off-set impacts of the 13 freeway projects. To expedite the delivery of the freeway projects, this program was initiated in 2007 to implement early project mitigation through

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property acquisition and habitat restoration. The program will be administered through a NCCP/HCP. Staff is seeking EOC endorsement of the HCCP/NCP, EIR/EIS, and the IA.

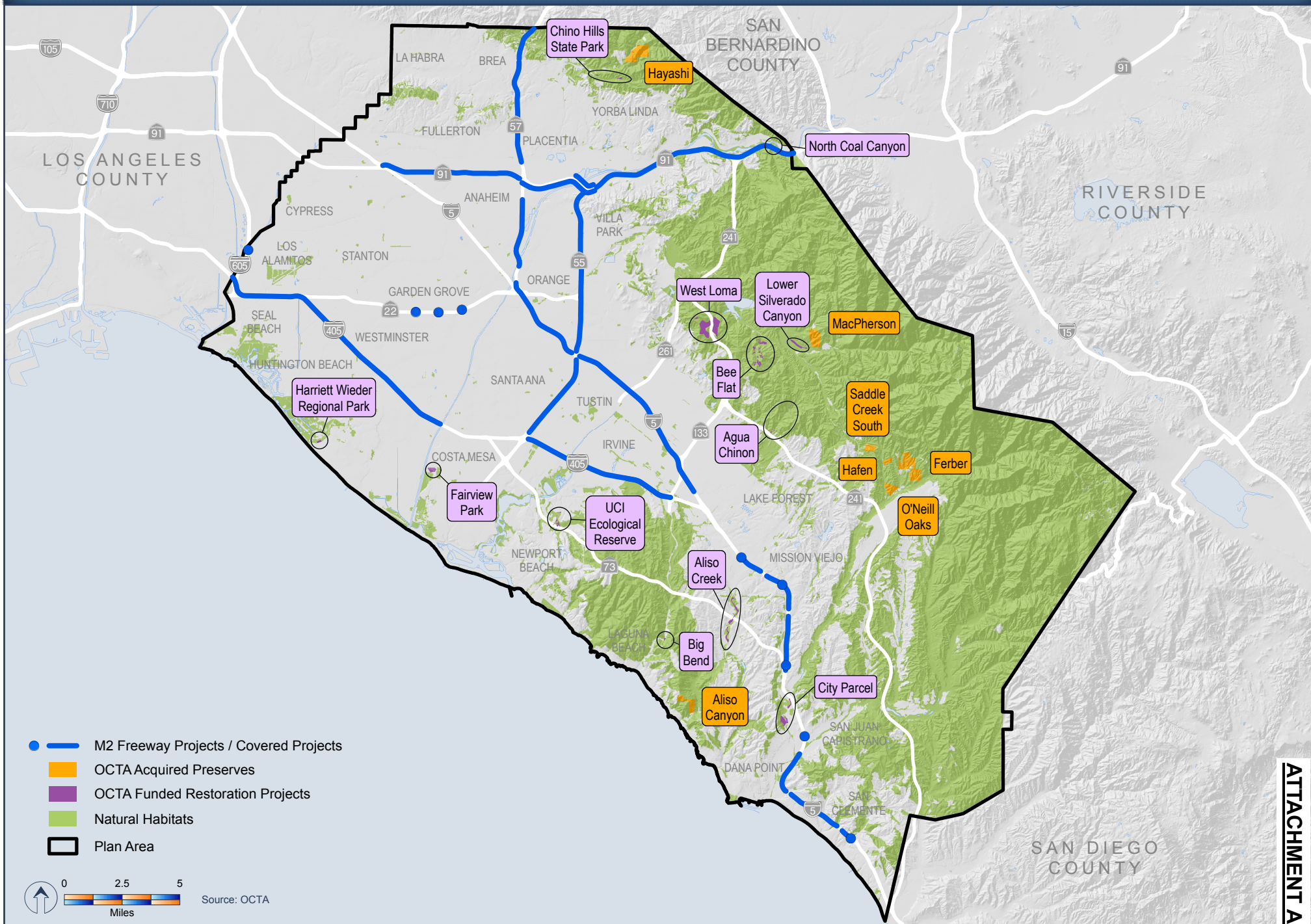
Attachments

- A. OCTA M2 Preserves and Restoration Projects
- B. EIR/EIS for OCTA M2 – Natural Community Conservation Plan/Habitat Conservation Plan – Administrative Final – October 2016
- C. OCTA M2 – Natural Community Conservation Plan/Habitat Conservation Plan – Administrative Final – October 2016
- D. Implementing Agreement for the Orange County Transportation Authority Natural Community Conservation Plan (NCCP) / Habitat Conservation Plan (HCP)

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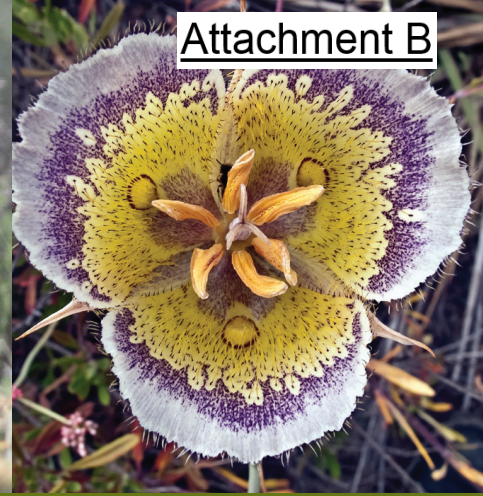


OCTA M2 Preserves and Restoration Projects



ATTACHMENT A

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EIR/EIS (Volume I) for **OCTA M2** **Natural Community Conservation Plan/ Habitat Conservation Plan**

Administrative Final

October 2016

Prepared for
Orange County Transportation Authority
550 S. Main Street
Orange, CA 92863

Prepared by
ICF
525 B Street, Suite 1700
San Diego, CA 92101

U.S. Fish and Wildlife Service
2177 Salk Avenue
Carlsbad, CA 92008



ADMINISTRATIVE FINAL

**M2 NATURAL COMMUNITY CONSERVATION
PLAN/HABITAT CONSERVATION PLAN EIR/EIS**

VOLUME I – FINAL EIR/EIS

PREPARED FOR:

Orange County Transportation Authority
550 S. Main St.
Orange, CA 92863

PREPARED BY:

ICF
525 B Street, Suite 1700
San Diego, CA 92101

October 2016



Executive Summary

This chapter provides a brief overview of the Measure M2 Natural Community Conservation Plan/Habitat Conservation Plan (M2 NCCP/HCP or Proposed Plan); and discusses the Proposed Plan's goals and objectives, alternatives considered, potential environmental consequences, and public issues and areas of controversy. This chapter also summarizes the evaluation of alternatives in terms of the Proposed Plan's goals and objectives and describes the process used to select the environmentally superior alternative under the California Environmental Quality Act (CEQA) and the environmentally preferred alternative under the National Environmental Policy Act (NEPA).

Overview

The Orange County Transportation Authority (OCTA) and U.S. Fish and Wildlife Service (USFWS) have prepared this joint Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) to evaluate the potential impacts associated with the issuance of take permits by the California Department of Fish and Wildlife (CDFW) and USFWS for the M2 NCCP/HCP. The M2 NCCP/HCP has been prepared to fulfill the requirements for issuance of an incidental take permit (ITP) under Section 10 of the federal Endangered Species Act (ESA) and take authorization under Section 2835 of the state Fish and Game Code (California Natural Community Conservation Planning Act—NCCPA). The purpose of the proposed NCCP/HCP is to protect and enhance ecological diversity and function in Orange County, and strengthen and enhance the integrity and connectivity of the existing protected lands in Orange County.

Background of the Proposed Plan

On November 6, 1990, Orange County voters approved Measure M, a 20-year, half-cent local transportation sales tax. All of the major projects promised to and approved by the voters in 1990 are complete. Funds that go to cities and the County of Orange to maintain and improve local streets and roads, along with transit-fare reductions for seniors and persons with disabilities, were components of Measure M, which ended on March 31, 2011. While the promises made in Measure M have been fulfilled, continued transportation investment still is needed as Orange County continues to grow.

In 2006, Orange County voters approved the renewal of Measure M (M2), a transportation sales tax designed to raise money to improve Orange County's transportation system. Among other things, OCTA proposed 13 freeway improvement projects through Measure M2. As part of the M2 program, at least 5%, or roughly \$285 million (based on 2016 forecast), of the freeway program revenues will be allocated to mitigate the environmental impacts of freeway projects, under the OCTA Mitigation and Resource Protection Program (MRPP). The goals of the MRPP are to engage in comprehensive, rather than piecemeal, mitigation to provide higher-value environmental benefits such as habitat protection, wildlife corridors, and resource preservation in exchange for streamlined project approvals for the freeway program as a whole.

The need for the Proposed Plan is based on the potential that the freeway improvement projects proposed by OCTA through the M2 transportation sales tax measure to result in take of Covered Species (defined in Chapter 2, "Proposed Plan and Alternatives"). In addition, the California

Department of Transportation (Caltrans) is the owner/operator of the freeway system and the improvements are subject to California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS) jurisdiction within the Plan Area (i.e., the area in which impacts would be evaluated and conservation would occur). Because these actions could result in the take of Covered Species, they require issuance of individual take permits on a project-by-project basis. The Proposed Plan would streamline the permitting process and assure that take of Covered Species is mitigated in a comprehensive manner through a broad strategy of species and habitat conservation.

In late 2009, the OCTA Environmental Oversight Committee (EOC) and Board of Directors approved the Master Agreement and Planning Agreement to establish the process, roles, responsibilities, and commitments for the preparation of the M2 NCCP/HCP. The goal of this effort is to provide an effective framework to protect and enhance natural resources in Orange County, while improving and streamlining the environmental permitting process for impacts of M2-related projects and activities on sensitive, threatened, and endangered species and their habitats.

Accordingly, OCTA, CDFW and USFWS have identified the following purposes/objectives.

- Streamlining the environmental permitting process for impacts on endangered species by authorizing take of listed and other Covered Species impacted, or potentially impacted, by covered transportation projects in Orange County.
- Reducing the cost and increasing the clarity and consistency of federal and state permitting.
- Sharing the costs and benefits of the habitat conservation plan as widely and equitably as possible.
- Improving the coordination and biological effectiveness of individual project mitigation.
- Protecting and enhancing ecological diversity and function in Orange County, and contributing to and enhancing the integrity and connectivity of the existing protected lands in Orange County.

This Final EIR/EIS describes the features of the Proposed Plan and its alternatives, including the No Project/No Action Alternative. As required by CEQA and NEPA, this Final EIR evaluates the potential impacts of the Proposed Plan and all alternatives.

This Final EIR/EIS incorporates by reference the OCTA 2006 Long Range Transportation Plan (LRTP) Program EIR (OCTA 2006), particularly in the analysis of covered freeway improvement projects in Chapter 4, "Environmental Consequences." The LRTP Program EIR was certified in 2006 along with associated CEQA findings, including a Statement of Overriding Considerations for LRTP impacts that would potentially remain significant after mitigation. The Final EIR/EIS prepared for the M2 NCCP/HCP is intended to provide CEQA and NEPA compliance for all Preserve acquisition and management activities described in the Proposed Plan regarding impacts on Covered Species and jurisdictional wetlands and waters. Covered freeway improvement projects that receive take coverage under the NCCP/HCP must also comply with additional review for CEQA (and NEPA when triggered) through separate project-specific environmental analyses. OCTA and Caltrans would be required to prepare the appropriate environmental documents and to comply with any mitigation requirements identified as part of project-specific environmental review, as well as any mitigation measures contained in the general plans for each of the participating jurisdictions.

Alternatives Analyzed in the Final EIR/EIS

Alternative 1: No Project/No Action

Under the No Project/No Action Alternative, the proposed NCCP/HCP, including implementation of conservation measures and creation of a Preserve System, would not be adopted, and permits pursuant to Section 10(a)(1)(B) of ESA and Section 2835 of the NCCPA would not be issued by USFWS and CDFW, respectively.

Under the No Project/No Action Alternative, compliance with ESA and CESA would continue to be addressed project-by-project for each of the M2 freeway projects. Freeway projects with a potential to affect federally listed species would be required to individually comply with ESA through either the preparation of individual habitat conservation plans (HCPs) and Section 10 permit application, or the Section 7 consultation process in cases in which federal authorization (e.g., Section 404 Clean Water Act [CWA] permitting by the U.S. Army Corps of Engineers [USACE]) or funding (e.g., Federal Highway Administration [FHWA] funding for transportation projects) are required. Section 7 compliance would focus on federally listed species and would not address state-listed or non-listed species.

No comprehensive strategies to avoid, minimize, or mitigate effects on sensitive species would be implemented under the No Project/No Action Alternative. No measures that provide for species recovery, as required under NCCPA, would be implemented. With project-by-project conservation and mitigation, listed and non-listed species would not benefit from the landscape-scale conservation actions that would otherwise be implemented through the NCCP/HCP.

Currently, the permitting and mitigation of impacts on special-status species associated with implementation of freeway projects in Orange County is undertaken on a project-by-project basis, which does not provide a mechanism for coordinating regional conservation and can result in potentially less effective biological mitigation.

Alternative 2: Proposed NCCP/HCP (Proposed Plan)

The proposed NCCP/HCP is a regional, comprehensive plan that establishes a framework for complying with state and federal endangered species regulations while accommodating future transportation improvements within the Plan Area. The Proposed Plan is designed to coordinate the process for permitting and mitigating the take of Covered Species associated with implementation of freeway projects in Orange County by implementing a broad strategy for conservation of Covered Species and their habitats.

The Plan proposes 13 listed and non-listed species for coverage. The Proposed Plan identifies a number of Covered Activities (defined in Chapter 2, "Proposed Plan and Alternatives") including the specific M2 freeway improvement projects and conservation activities in the Preserve Areas, that may result in take of federal- and/or state-listed species or species that may become listed during the Permit term. These Covered Activities are considered in assessing the total amount of Covered Species take that would be expected in the Permit Area and in developing the overall NCCP/HCP conservation strategy. The issuance of take permits for the Proposed Plan does not confer or imply authorization of any specific covered freeway improvement projects; all covered freeway improvement projects would be subject to future discretionary approval authority within the individual jurisdictions where the activity or project would occur. The take permits for the Proposed Plan would only authorize conservation and management activities within the NCCP/HCP Preserves.

The primary responsibility for Plan implementation rests with OCTA. However, as described in the Proposed Plan, other groups would have secondary responsibility for coordination, plan compliance, and implementation of various aspects of the Proposed Plan. Implementation of the conservation strategy, monitoring program, Covered Activities approvals, and reporting will require coordinated actions among OCTA, Caltrans, Preserve Managers, Monitoring Biologists, Restoration Project Sponsors, and Wildlife Agencies.

In order to comply with the requirements of the ESA, the California Endangered Species Act (CESA), and the NCCPA, the Proposed Plan addresses a number of required elements, including species and habitat goals and objectives; the evaluation of Covered Activities effects on Covered Species, including indirect and cumulative effects; a conservation strategy; a monitoring and adaptive management program; descriptions of changed circumstances and remedial measures; and identification of funding sources. The key elements of the Proposed Plan are described in Chapter 2.

Non-Covered Species that occur within the Plan Area would continue to be regulated under CESA and ESA. Take of non-covered listed species can be authorized separately from the Proposed Plan under Section 2081 of the Fish and Game Code, or Sections 7 or 10 of the ESA. Impacts on species not covered under the Proposed Plan could also be addressed through the amendment process described in Chapter 8, "Plan Implementation," of the Proposed Plan.

Alternative 3: Federal and State ESA-Listed Species Only NCCP/HCP (Reduced Plan)

Under the Reduced Plan Alternative, only those species that are federally or state-listed as threatened or endangered would be proposed for coverage under the NCCP/HCP. Accordingly, only the following three species would be covered under Alternative 3.

- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Least Bell's vireo (*Vireo bellii pusillus*)
- Coastal California gnatcatcher (*Polioptila californica californica*)

The amount of land acquisition and Preserve Area assembled would be identical to that of the Proposed Plan. The amount of species-specific habitat restoration required would be less, however, because the conservation strategy measures would be focused only on the three ESA-listed species mentioned above.

Under the Reduced Plan Alternative, no assurances would be provided by USFWS, as part of the ITPs, that the avoidance and mitigation measures provided in the proposed NCCP/HCP would adequately conserve currently non-listed species that may be listed during the term of the NCCP/HCP. Other sensitive species would not be covered, and take would be addressed on a project-by-project basis, similar to the No Project/No Action alternative.

Environmental Consequences

This Final EIR/EIS evaluates the environmental consequences of the Proposed Plan and its alternatives. A summary of the impact analysis for these alternatives is presented at the end of this chapter (Table ES-1) and in Chapter 4, "Environmental Consequences." In addition, CEQA and NEPA require a review of other issues, which are described in Chapter 5, "Other Required CEQA and NEPA Analyses," of this Final EIR/EIS.

Significant and Unavoidable Impacts

As evaluated in Chapter 4, “Environmental Consequences,” there would be no significant unavoidable (i.e., unmitigable) impacts that would result from conservation activities under the Proposed Plan or its alternatives. All potentially significant impacts resulting from Proposed Plan implementation would either be avoided or would be reduced to below a level of significance with the mitigation measures identified in this Final EIR/EIS.

Regarding the underlying freeway improvement project impacts, analysis was incorporated by reference from OCTA’s 2006 LRTP Program EIR. Some freeway improvement impacts were determined to be significant and unavoidable and a Statement of Overriding Considerations was adopted for the LRTP Program EIR. The freeway improvement impact conclusions have been added in this Final EIR/EIS analysis for informational purposes only, and these conclusions are not modified in any way by the impact analysis provided herein for the biological mitigation and conservation activities.

Areas of Controversy/Issues

OCTA released a Notice of Preparation (NOP) for the Draft EIR on December 3, 2010, initiating the scoping period. A Notice of Intent (NOI) to prepare an EIS was noticed in the *Federal Register* on December 1, 2010. Written comments were received by OCTA during the scoping period (December 1, 2010, to January 13, 2011). These comments are included as Appendix B to this document.

A scoping meeting was held on Wednesday, December 15, 2010, from 5 p.m. to 7 p.m. at OCTA offices (550 South Main Street, Orange, CA 92863). There were 11 attendees at the scoping meeting. Also in attendance were staff members representing CDFW and USFWS. Attendees represented a variety of community groups, including, residents, environmental groups, and the Orange County Planning Department.

At the scoping meeting, team members were present to provide information to the public on the details of the Proposed Plan, including: the background of the environmental mitigation program, program benefits to the county, components of an NCCP/HCP, descriptions of Covered Species, location of the Plan Area, and the program’s next steps. The meeting also informed the public about the details of the environmental process and served as an opportunity for the community to provide feedback to help guide the Plan’s development.

The following key issues of public concern regarding the Proposed Plan were identified during the scoping process.

Biological Resources

- Wildlife and endangered species protection must be a priority.
- The January 2011 Department of Interior USFWS Final Critical Habitat for the Arroyo Toad Unit #8 Santa Ana River Basin should be incorporated.
- Continued acquisition and management of lands within the Puente-Chino Hills Wildlife Corridor would further connectivity between this area and Orange County extending to the Santa Ana Mountains.

- Measures should be incorporated into the NCCP/HCP that promote wildlife movement and habitat connectivity within the Puente Chino Hills Wildlife Corridor.
- The Draft EIR/EIS should include a complete assessment of sensitive biological resources and a discussion of direct, indirect, and cumulative impacts on biological resources within and adjacent to the Plan Area.
- Development within wetlands is discouraged.
- Conservation easements should be placed on all acquisition and restoration properties to ensure proper protection.
- The NCCP/HCP should clearly define compatible uses.

Cultural Resources

- Native American Cultural Resources were identified in the Plan Area vicinity as a part of the Native American Heritage Commission (NAHC) Sacred Land File.
- Avoidance of cultural resources in accordance with CEQA should be considered.
- Consultation with Native American tribes regarding the Plan should be conducted in compliance with federal requirements.

Funding

- There is potential lack of funding for execution and maintenance of the Proposed Plan.

Land Use

- Certain areas identified for conservation in the Conservation Assessment completed by Conservation Biology Institute are identified as Planning Areas for future development by Rancho Mission Viejo.

Water Quality

- Runoff from the NCCP/HCP must conform to Regional Water Quality Control Board discharge requirements.

CEQA Process

- Each project proposed associated with the NCCP/HCP must have subsequent environmental documentation, and associated technical studies must adhere to Caltrans protocol.
- The Draft EIR/EIS should cover mitigation for losses of habitat associated with highway projects, long-term management of the Preserve Areas, and funding mechanisms.

Summary of Alternative Impacts

Table ES-1 provides an overall summary and comparison of impacts by resource topic across the alternatives. Detailed discussions of potential resource topic impacts by alternative are provided in Chapter 4, "Environmental Consequences."

Environmentally Superior/Preferred Alternative

The impacts associated with Alternatives 2 and 3 are qualitatively similar, though Alternative 2 would provide for a greater level of conservation, particularly through increased restoration. The overall benefit to species would therefore be greater under Alternative 2, without a measurable difference in impacts on the environment. Therefore, the environmentally superior/preferred alternative is Alternative 2, the Proposed Plan.

Table ES-1. Overall Impacts Summary by Resource Topic for All Alternatives¹

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
Agriculture	0	Covered freeway improvement projects and the biological mitigation and conservation activities would not impact agricultural resources. The possibility exists that parcels of land needed to meet mitigation required for individual covered freeway improvement projects could impact Important Farmland or Williamson Act lands; however, such effects are unlikely and speculative because the sites are not known at this time.	0	There would be no impact on prime farmland, unique farmland, or farmland of statewide importance to non-agricultural use, as the acquired Preserve Areas and areas for the covered freeway improvement projects do not contain land designated as such. Agricultural impacts associated with the biological mitigation and conservation activities under Alternative 2 would not occur.	0	Effects under Alternative 3 would be the same as Alternative 2. Agricultural impacts associated with the biological mitigation and conservation activities under Alternative 3 would not occur.
Air Quality and Greenhouse Gases ²	–	As described in the LRTP Program EIR, covered freeway improvement project construction activities under Alternative 1 would create short-term temporary air emissions. Construction activities associated with transportation facilities of any medium- to large-scale highways or arterials would be expected to individually generate a significant amount of construction activity and therefore exceed the	–	In addition to the impacts from covered freeway improvement projects, Alternative 2 Preserve management activity emissions would temporarily generate criteria pollutant (ROG, NO _x , SO _x , CO, PM ₁₀ , and PM _{2.5}) and GHG (CO ₂ , CH ₄ , and N ₂ O) emissions, which could result in adverse effects on short-term ambient air quality and climate change. Daily emissions estimates would be well below SCAQMD daily mass regional and localized threshold levels, annual emissions	–	Effects under Alternative 3 would be the same as Alternative 2. Air quality and greenhouse gas impacts associated with the biological mitigation and conservation activities under Alternative 3 would be less than significant.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
		significance thresholds established in the CEQA Handbook. This would create a potentially significant short-term impact. These impacts would occur in localized areas, depending on the construction site locations. Air quality and greenhouse gas impacts associated with the biological mitigation and conservation activities under Alternative 1 would be less than significant.		estimates would be well below federal de minimis levels, and annual emissions estimates would be well below both SCAQMD draft GHG thresholds (3,000 MT) and CEQ's reference point (25,000 MT). Air quality and greenhouse gas impacts associated with the biological mitigation and conservation activities under Alternative 2 would be less than significant.		
Biological Resources	–	Covered freeway improvement projects under Alternative 1 would have an overall negative effect on biological resources. While project-by-project mitigation may be effective at targeting and preserving high-value habitat, the creation of smaller mitigation sites would likely result in ineffective species conservation across the landscape. Smaller preserve areas may fail to meet preserve design standards to maximize preserve size, incorporate environmental gradients, minimize edges, and preserve habitat linkages. Furthermore, the absence of a	++	Alternative 2 achieves a higher-value conservation than what would be expected through project-by-project mitigation of the covered freeway improvement projects. Conservation would be completed in a comprehensive manner under the NCCP/HCP that would result in large blocks of preserved and restored habitat in locations important for regional conservation. Biological resource impacts associated with the biological mitigation and conservation activities under Alternative 2 would be less than significant.	+	Alternative 3 achieves a higher-value conservation than what would be expected through project-by-project mitigation of the covered freeway improvement projects (i.e., Alternative 1); however, beneficial effects on Covered and Non-Covered Species would be reduced since the level of species-specific management and restoration efforts would be slightly less with fewer Covered Species. Biological resource impacts associated with the biological mitigation and conservation activities under Alternative 3 would be less than significant.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
		comprehensive monitoring and adaptive management program would create less certainty in the long-term success of mitigation sites. Biological resource impacts associated with the biological mitigation and conservation activities would be potentially significant and unavoidable under Alternative 1.				
Cultural Resources ²	–	The potential exists under Alternative 1 for earthmoving activities of covered freeway improvement project activities to have impacts on known and unknown archeological, historic, built environment, and paleontological resources. Potential impacts on these resources would remain significant after implementation of mitigation measures. Therefore, cultural resource impacts associated with the biological mitigation and conservation activities would be potentially significant and unavoidable under Alternative 1.	–	Effects under Alternative 2 would be reduced when compared with Alternative 1 because the preserve sites are known, and cultural resource impacts would be mitigated to less than significant or avoided entirely. Therefore, cultural resource impacts associated with the biological mitigation and conservation activities under Alternative 2 would be less than significant after mitigation is incorporated.	–	Effects under Alternative 3 would be the same as Alternative 2. Therefore, cultural resource impacts associated with the biological mitigation and conservation activities under Alternative 3 would be less than significant after mitigation is incorporated.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
Geology, Soils, and Seismicity ²	–	As documented in the LRTP Program EIR, covered freeway improvement projects under Alternative 1 could result in substantial grading or other earth modifications that could generate air and waterborne erosion and slope failure. Earthwork or major cuts into hillsides could create unstable slope conditions and lead to long-term soil erosion, creating potential landslide and falling rock hazards. Therefore, potential impacts related to long-term erosion and slope failure due to covered freeway improvement projects have the potential to generate significant erosion and slope failure impacts, and the LRTP Program EIR identified this impact as significant and unavoidable. However, geology, soils, and seismicity impacts associated with the biological mitigation and conservation activities under Alternative 1 would be less than significant.	–	In addition to impacts from covered freeway improvement projects which would be the same as under Alternative 1, any minor construction resulting from covered Preserve management activities under Alternative 2, such as the installation of Preserve management offices, maintenance sheds, restrooms, wildlife observation platforms, or educational kiosks, would be built according to appropriate standards, including the current IBC and CBC. Geology, soils, and seismicity impacts associated with the biological mitigation and conservation activities under Alternative 2 would be less than significant.	–	Effects under Alternative 3 would be the same as Alternative 2. Geology, soils, and seismicity impacts associated with the biological mitigation and conservation activities under Alternative 3 would be less than significant.
Hazards and Hazardous Materials	–	Covered freeway improvement projects under Alternative 1 would have potential for accidental release of hazardous	–	Effects under Alternative 2 would be the same as Alternative 1. Hazards and hazardous materials impacts associated with the biological	–	Effects under Alternative 3 would be the same as Alternative 2. Hazards and hazardous materials impacts associated with the biological

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
		materials or the disturbance of contaminated soils. However, impacts would be less than significant impacts after mitigation. Hazards and hazardous materials impacts associated with the biological mitigation and conservation activities under Alternative 1 would be less than significant after mitigation.		mitigation and conservation activities under Alternative 2 would be less than significant after mitigation.		mitigation and conservation activities under Alternative 3 would be less than significant after mitigation.
Hydrology and Water Quality	-	Covered freeway improvement projects under As documented in the LRTP Program EIR, Alternative 1 would result in temporary and permanent impacts on drainage and stormwater quality, including the general categories of increased stormwater runoff from increased impervious surfaces, increased amounts of automotive waste transported into local drainages, increased erosion and siltation in local drainages, degradation of groundwater quality, and exposure to flooding. The LRTP Program EIR determined that this impact during project operation would be significant and unavoidable. However, for the	+	While covered freeway improvement project impacts would be the same as Alternative 1, the implementation of an NCCP/HCP would result in a larger acreage of biological resources mitigation/conservation that would also benefit hydrology and water quality. The acquisition of large blocks of Preserve lands and funding of restoration projects would contribute to the protection and enhancement of natural hydrologic functions and improvement of water quality. Hydrology and water quality impacts from the biological mitigation and conservation activities under Alternative 2 would be less than significant.	+	Effects under Alternative 3 would be the same as Alternative 2. Hydrology and water quality impacts from the biological mitigation and conservation activities under Alternative 3 would be less than significant.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
		biological mitigation and conservation activities, the incorporation of project design features, along with the use of identified BMPs, would reduce potential hydrology and water quality impacts to less than significant.				
Land Use	–	Under Alternative 1, development within the incorporated portions of the county would be consistent with general plan guidance; however, mitigation for covered freeway improvement impacts would occur on a case-by-case basis and could result in inconsistencies between existing, adjacent, and planned land uses. The LRTP Program EIR identified a significant and unavoidable impact related to land use for the covered freeway improvement projects. However, land use impacts related to the biological mitigation and conservation activities under Alternative 1 would be less than significant.	+	Impacts associated with covered freeway improvement projects would be the same as Alternative 1. Restoration activities would not result in changes in land use from the current nature of the Preserves that would result in environmental impacts. Alternative 2 would have beneficial impact on recreational resources by protecting the Preserve Areas from development and increasing the availability of passive recreational resources on properties that were privately owned. Land use impacts from the biological mitigation and conservation activities under Alternative 2 would be less than significant.	+	Effects under Alternative 3 would be the same as Alternative 2. Land use impacts from the biological mitigation and conservation activities under Alternative 3 would be less than significant.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
Noise ²	–	The LRTP Program EIR determined that long-term noise impacts from the covered freeway improvement projects would be significant and unavoidable, and construction activities associated with covered freeway improvement projects under Alternative 1 would generate noise from the movement of construction vehicles, and construction activities. Noise impacts associated with the biological mitigation and conservation strategies under Alternative 1 would result in minimal to no operational noise and much less construction activity and its associated noise. Furthermore, construction activities would be carried out in compliance with the California Department of Transportation (Caltrans) Construction Noise Criteria, and mitigation measures would be implemented to reduce impacts to less than significant.	–	In addition to noise associated with covered freeway improvement projects as under Alternative 1, Alternative 2 could result in specific construction-related noise from restoration and conservation management activities (e.g., invasive species removal) within the Preserve System. Conservation activities under the Proposed Plan would not result in long-term noise-sensitive land uses being exposed to noise in excess of an established standard because implementation of the Proposed Plan would not result in permanent noise. Furthermore, all construction activities would be carried out in compliance with Caltrans Construction Noise Criteria, and mitigation measures would be implemented. Therefore, noise impacts from the biological mitigation and conservation activities under Alternative 2 would be less than significant with mitigation incorporated.	–	Effects under Alternative 3 would be the same as Alternative 2. Noise impacts from the biological mitigation and conservation activities under Alternative 3 would be less than significant with mitigation incorporated.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
Socioeconomics and Environmental Justice	–	The LRTP Program EIR determined that the development of covered freeway improvement projects under Alternative 1 could result in the disturbance and/or loss of land currently used for residential or business purposes. The acquisition and relocation of existing homes and businesses required by certain projects that are part of the LRTP would result in a less than significant impact after mitigation. Socioeconomic impacts associated with the biological mitigation and conservation activities would be less than significant because the conservation of land would not substantially affect, in an adverse manner, the provision of housing, employment, and economic well-being.	–	Covered freeway improvement effects, as well as biological mitigation and conservation activities, on housing, employment, and economic well-being under Alternative 2 would be the same as those described under Alternative 1. Impacts would be less than significant.	– +	Effects under Alternative 3 would be the same as Alternative 2. Impacts would be less than significant.
	+	Construction of covered freeway improvement projects would have a beneficial impact on employment and the local economy, which is burdened by the continuing effects of the recession following the financial crisis. Therefore, the	+	In addition to impacts from covered freeway improvement projects as described in Alternative 1, construction activities in Preserve Areas under Alternative 2 would have beneficial impacts on employment and the local economy. No adverse impact would occur.		

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
		Proposed Plan may also have beneficial effects on employment and the local economy for minority and low-income groups through the conservation of biological resources in the community. Impacts would be less than significant.				
Transportation and Circulation	+	Based on the analysis completed in the LRTP Program EIR, short-term traffic impacts associated with covered freeway improvement projects under Alternative 1 could occur during construction activities. Covered freeway improvement projects would have a positive effect on the transportation system in Orange County (OCTA 2006) and would not conflict with applicable congestion management plans, ordinances, or policies. Moreover, implementation of biological mitigation and conservation activities would result in less-than-significant impacts under Alternative 1.	+	<p>In addition to the short-term traffic impacts associated with covered freeway improvement projects under Alternative 1, conservation activities under Alternative 2 could impact congestion levels during restoration activities, but this impact would be less than significant and mitigation would not be required.</p> <p>As with Alternative 1, covered freeway improvement projects would have a positive effect on the transportation system in Orange County (OCTA 2006) and would not conflict with applicable congestion management plans, ordinances, or policies. Implementation of biological mitigation and conservation activities would result in less-than-significant impacts under Alternative 2.</p>	+	Effects under Alternative 3 would be the same as Alternative 2. Implementation of biological mitigation and conservation activities would result in less-than-significant impacts under Alternative 3.

Resource Topic	Alternative 1: No Project/No Action		Alternative 2: Proposed Plan		Alternative 3: Reduced Plan	
	Impact Finding	Summary	Impact Finding	Summary	Impact Finding	Summary
¹ The findings within this table are for the purpose of evaluating the Proposed Plan and based on the information presented in the OCTA LRTP Program EIR (2006).						
² The OCTA LRTP Program EIR (2006) identified potentially significant unavoidable effects resulting from covered freeway improvement projects in this environmental resource topic.						
Notes:						
0 = no substantial change relative to current conditions						
– = negative trend relative to current conditions						
+ = positive trend relative to current conditions						
++ = substantial positive trend relative to current conditions						

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OCTA M2

Natural Community Conservation Plan/ Habitat Conservation Plan

Administrative Final

October 2016

Prepared for
Orange County Transportation Authority
550 S. Main Street
Orange, CA 92863

Prepared by
ICF
525 B Street, Suite 1700
San Diego, CA 92101



ADMINISTRATIVE FINAL

**ORANGE COUNTY TRANSPORTATION
AUTHORITY M2 NATURAL COMMUNITY
CONSERVATION PLAN/HABITAT
CONSERVATION PLAN (NCCP/HCP)**

PREPARED FOR:

Orange County Transportation Authority
550 S. Main St.
Orange, CA 92863

PREPARED BY:

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October 2016



Introduction

In 2006, Orange County voters approved the renewal of Measure M, effectively extending the half cent sales tax to provide funding for transportation projects and programs in the county. As part of the renewed Measure M (or Measure M2), a portion of the M2 freeway program revenues were set aside for the M2 Environmental Mitigation Program (EMP) to provide funding for programmatic mitigation to offset impacts from the freeway projects in the 13 freeway segments covered by Measure M2. The Orange County Transportation Authority (OCTA) has prepared this Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP or Plan) as a mechanism to offset potential project-related effects on threatened and endangered species and their habitats in a comprehensive manner. The Plan achieves higher-value conservation than what would be expected through project-by-project mitigation in exchange for a streamlined project review and permitting process for the Measure M2 freeway program as a whole.

This Plan fulfills the requirements for issuance of permits from the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS), collectively referred to as the Wildlife Agencies, which allows for the take of threatened and endangered species and their habitats. OCTA will be the sole Permittee receiving permits from the Wildlife Agencies with terms of 40 years from the date of issuance. The California Department of Transportation (Caltrans), as the owner and operator of the state highway system, will be included as a Participating Special Entity. Caltrans will usually be the Construction Lead and in those situations OCTA issue a project specific Certificate of Inclusion that will describe the authorized take and required avoidance and minimization measures as set forth in the Plan.

As part of an Early Action Plan (EAP), OCTA was able to bond against future M2 revenues to implement conservation actions (Preserve acquisitions and restoration projects) to provide advanced, comprehensive mitigation for effects on sensitive species and their habitats. The identification and selection of Preserve acquisitions and restoration projects was coordinated by the Environmental Oversight Committee (EOC). The EOC is made up of two OCTA Board members and representatives from Caltrans, the Wildlife Agencies, U.S. Army Corps of Engineers (USACE), environmental groups, and the public. The goal of the EOC was to identify conservation measures that protect and enhance habitats as mitigation for potential impacts associated with the M2 funded freeway improvement projects. To date, OCTA has acquired seven Preserves that include 1,232 acres of protected natural habitat, and has approved funding for 11 habitat restoration projects totaling approximately 357 acres. With remaining funds from the EAP and using additional M2 revenue funds as needed, OCTA is committed to funding additional restoration projects. The Plan establishes selection criteria for these future restoration projects to ensure that they will help to achieve the Plan's biological goals and objectives.

As part of this Plan, a conservation analysis was completed that compares the level of conservation achieved under the Plan with a set of quantifiable targets and broader biological goals and objectives. This will ensure that conservation actions occur within areas that complement regional conservation goals. The conservation analysis demonstrates that the OCTA Preserve acquisitions and restoration projects coupled with the existing conserved lands, and in conjunction with a set of approved avoidance and minimization measures, result in a level of conservation that meets the criteria for CDFW and USFWS to issue permits under the State Natural Community Conservation Planning Act (NCCPA) and federal Endangered Species Act (ESA), respectively.

Key elements of the Plan are summarized below.

Covered Species (Chapter 1, Section 1.2.3)

The Plan will protect and enhance native biological diversity, habitat for native species, natural communities, and local ecosystems throughout the Plan Area¹. This broad scope will conserve a wide range of natural resources, including native species that are common or rare. However, the permits issued by the Wildlife Agencies will address a defined set of Covered Species that are currently listed as threatened or endangered or that may become listed during the permit term, that may be impacted by Covered Activities, and that will benefit from Plan-related conservation and management. This Plan covers 13 listed and non-listed species including:

- Plants (3): intermediate mariposa lily, many-stemmed dudleya, southern tarplant
- Fish (1): arroyo chub
- Reptiles (3): coast horned lizard, orangethroat whiptail, western pond turtle
- Birds (4): cactus wren, coastal California gnatcatcher, least Bell's vireo, southwestern willow flycatcher
- Mammals (2): bobcat, mountain lion

Covered Activities (Chapter 3)

The primary goal of the Plan is to obtain authorization for take of Covered Species under the NCCPA and ESA for the implementation of covered freeway improvement projects and other management and monitoring activities on Preserves (Covered Activities). Freeway improvement projects covered by this Plan are defined to include all habitat or ground-disturbing impacts resulting from the M2 transportation planning and project implementation process. There are 13 discrete proposed freeway project areas in which freeway segments have been identified for coverage under the Plan. These proposed projects are designed to reduce congestion, increase capacity, and improve traffic flow of Orange County's important transportation infrastructure. The freeway improvement projects are, in all instances, along existing freeways and will include lane additions, interchange improvements, and associated facility upgrades. These freeway improvement projects do **not** include the construction of new freeways.

Covered Activities also include management of the Preserves, which could result in a small amount of take of Covered Species' habitats as a result of ongoing habitat restoration and monitoring by Preserve Managers. In addition, OCTA has made a commitment to allow some public access and passive recreation (e.g., trails for potential hiking, equestrian, and mountain biking use) on the Preserves such that these activities do not conflict and are compatible with the overall goals and objectives of wildlife and habitat protection established by the Plan. Improvements to and, where appropriate, creation of new trails will be covered under the Plan. In addition, public access and passive recreation that are consistent with the Plan will be compatible uses that do not require coverage under the permit because they are not anticipated to result in the take of Covered Species and/or their habitats.

¹ Plan Area includes the entirety of Orange County. It is a broad planning area in which impacts would be evaluated and conservation would occur.

Estimated Level of Take (Chapter 4)

The allowable amount of take associated with the freeway improvement projects was quantified by overlaying planning-level effect footprints (direct and indirect) on natural communities, predicted species habitat, species occurrences, and designated critical habitat. These footprints represent a worst-case scenario, and actual effects are expected to be less through implementation of avoidance and minimization measures. A total of **141.0 acres** of natural habitat is estimated to be directly affected; with grasslands the most heavily affected land cover type. Grasslands are especially common in previously disturbed areas, including areas along existing freeway infrastructure, which are often mowed and maintained by Caltrans. A total of **484.4 acres** of natural habitat occur within the indirect effects footprint (300 feet around the direct effect footprint). The types of indirect effects associated with freeway improvement projects include noise and light pollution, hydrology and water quality effects, introduction and spread of invasive species, degradation of habitat connectivity, risk of fire ignition, and vehicular mortality. Because these freeway projects are designed to improve existing freeway infrastructure, the indirect effects will represent a slight increase in the existing effects that are already occurring as a result of the original construction of these roadways. The additional effects associated with these freeway projects represent a negligible increase for the cumulative effects across the Plan Area. The freeway projects covered by the Plan are defined in the Long Range Transportation Plan Program EIR (OCTA 2006) as growth accommodating and therefore do not represent a growth inducing impact.

Some activities expected to occur as part of the Preserve management and monitoring may adversely affect some Covered Species and natural communities. These effects are expected to be of limited severity and generally temporary. Effects associated with trail or access road management, fire prevention/fuel modification, and management facilities construction may result in permanent impacts. For purposes of this Plan, a threshold of **13 acres** was determined to be the maximum amount of impacts resulting from these types of activities within the total of all Preserves to be acquired. The threshold of 13 acres represents approximately 1% of the overall natural habitat acreage acquired under this Plan (1,232 acres).

Biological Goals, Objectives, and Targets (Chapter 5, Sections 5.2 and 5.3)

To guide the development of the conservation strategy and serve as a benchmark for the Plan's conservation analysis, quantifiable biological targets were developed based on the type and level of take estimated to occur from the Covered Activities. Based on these estimates, the Plan will conserve a minimum target of **550.4 acres** of natural habitat, including specific targets for individual habitat types, as well as additional species-specific biological metrics. The targets represent an estimate of the amount of conservation to offset the direct and indirect effects from Covered Activities. The targets are listed in Table ES-1 at the end of this Executive Summary.

The Plan also contains a broader set of biological goals and objectives at the landscape, natural community, and species level that describe how the conservation actions occur within areas important for regional conservation purposes. Goals are broad and based on the conservation needs of the resources. Biological objectives describe in more detail the conservation or desired conditions to be achieved and have been designed to collectively attain the biological goals. The biological goals and objectives indicate how the additional conservation of large blocks of habitat will benefit the biodiversity, natural communities, and habitat connectivity throughout key portions of the Plan Area, and provide for the conservation and management of Covered Species. The Orange County Conservation Assessment prepared by the Conservation Biology Institute (CBI 2009) for the EOC

has identified priority conservation areas within Orange County and has been used as a tool to guide and evaluate the conservation actions. The biological goals and objectives are presented in Table ES-2 at the end of this Executive Summary.

Conservation Strategy (Chapter 5)

The Plan conservation strategy is designed to fulfill requirements of the California NCCPA and federal ESA, and to streamline compliance with the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), and other applicable environmental regulations. OCTA is not a general land use agency with the jurisdictional authority to establish a “stand-alone” preserve system for the entire Plan Area, nor does OCTA affect development and conservation decisions subject to jurisdictions (various cities, County of Orange, etc.) having such land use authority. The Plan only authorizes habitat losses attributable to the Covered Activities. The Covered Activities extend across Orange County and across the plan areas for other conservation planning efforts in Orange County. Therefore, the Plan’s overarching conservation strategy is to make an important contribution to the existing network of conserved lands that occur throughout Orange County. The OCTA Plan will achieve this goal by increasing the size and habitat quality of core habitat areas, and by protecting/enhancing the connectivity of these core areas to other protected habitats throughout the Plan Area.

The primary elements of the Plan’s conservation strategy are:

1. **Preserve Acquisitions (Chapter 5, Section 5.4).** OCTA has acquired seven properties, resulting in the protection of 1,232 acres of natural habitat (note that the total acreage of the seven properties is approximately 1,296 acres, but the amount of protected natural habitat credited to OCTA is less because portions of the properties are developed, include trails/maintenance roads, and the Saddle Creek South property was acquired, in part, with funding from the National Fish and Wildlife Foundation and credits were adjusted accordingly). Each property will be protected with a conservation easement, and sufficient funding will be set aside to ensure that the properties are properly monitored and managed in perpetuity. Public managed access will be provided on some of these properties, if that access is consistent with the Plan’s biological goals and objectives.
2. **Restoration Projects (Chapter 5, Section 5.5).** OCTA has approved funding for 11 restoration projects to date, totaling approximately 357 acres of restored habitats. The restoration projects occur throughout the Plan Area in core habitat areas and within key habitat linkages and riparian corridors. The restoration projects are on lands currently protected and will enhance habitat for Covered Species. OCTA has committed to funding additional restoration projects with the remaining restoration funds (approximately \$400,000 remaining from the previous round of restoration project selection) and through future restoration project selections. The Plan identifies requirements for future restoration to ensure that the Plan provides conservation for all Covered Species.
3. **Avoidance and Minimization (Chapter 5, Section 5.6).** The Plan includes measures to avoid and minimize take of Covered Species. These avoidance and minimization measures will be implemented through a process to verify compliance of project design and construction of Covered Activities. Covered Activities will comply through avoidance and minimization of sensitive biological areas, adherence to species-specific protection measures and policies, compliance with procedures for protection of nesting birds, stormwater and water quality best management practices (BMPs), and wildfire protection techniques. Any costs associated with implementing these measures for covered freeway improvement projects, as described in the Plan, will be funded through the individual project budgets and will not rely on funding under

the M2 Environmental Mitigation Program. OCTA will have a Project Manager overseeing the activities undertaken by the Construction Lead (either Caltrans or OCTA). The OCTA Project Manager will be responsible for ensuring all avoidance and minimization measures are completed and documented by the Construction Lead and its contractors following the requirements as set forth by the Plan.

4. **Streambed Program (Chapter 5, Section 5.7).** The Plan includes the Streambed Protection Mitigation Program (Streambed Program) which outlines the process for submittal of project-level Notification(s) of Lake or Streambed Alteration(s) (NLSA) and the issuance of individual Lake or Streambed Alteration Agreements (LSAAs) for the Covered Activities pursuant to California Fish and Game Code sections 1600–1616. The Streambed Program requires the evaluation of specific streambed avoidance and minimization measures prior to compensatory mitigation. The Streambed Program will ensure that adequate mitigation is completed and that this mitigation is based on habitat and type of aquatic resources necessary to address state regulatory obligations. For unavoidable permanent impacts on streambed and associated riparian habitat, OCTA will compensate at the pre-approved mitigation sites identified in Appendix E, “Streambed Program Guidelines,” which are sites within the acquired Preserves and the restoration projects approved for funding, to achieve no-net-loss standards. Additionally, for temporary impacts on streambeds and associated riparian habitat, OCTA will ensure the impact site will be restored to its pre-project condition, when appropriate, to achieve no-net-loss standards. Restoration plans, as approved by CDFW, USFWS, and if warranted the USACE and State Water Resources Control Board, will be implemented at the sites.
5. **Mitigation Approach (Chapter 5, Section 5.8).** The conservation actions taken as part of this Plan provide advanced mitigation only for the Covered Activities. Once the Covered Activities are completed, there will be no remaining credits that can be used by OCTA as mitigation for non-M2 projects. As the Plan is implemented, OCTA will be responsible for tracking impacts on natural resources resulting from Covered Activities to ensure impacts stay below the amount of impacts estimated as part of this Plan.

Conservation Analysis (Chapter 6)

The conservation analysis demonstrates how implementation of the conservation strategy (Preserve acquisitions, restoration projects, and avoidance and minimization measures) will result in either meeting or exceeding the Plan’s biological goals, objectives, and targets. A quantitative summary of how the Plan meets the targets is included as Table ES-1. A summary of the analysis of how the Plan also achieves the broader biological goals and objectives is included in Table ES-2. In some instances, the Plan identifies requirements for the future restoration projects to enhance and expand on the level of conservation needed to meet the Plan’s biological goals and objectives. The specific Covered Species highlighted for additional conservation include arroyo chub and many-stemmed dudleya.

Management and Monitoring (Chapter 7)

The Plan sets forth a Preserve Management and Monitoring Program that establishes practices to ensure the long-term health and viability of species and ecological values within the Preserves. Guidelines are provided as a framework for OCTA and its Preserve Managers to use when developing Preserve-specific resource management plans. General Preserve stewardship issues and actions addressed include species and habitat management, wildlife species management, property management, hydrology and erosion control, land uses within Preserves, land uses adjacent to

Preserves, recreation, enforcement of public access, fire management, and public outreach and education. The Plan also outlines the types of monitoring that will be done on the Preserves and explains how adaptive management will be used to revisit the management objectives and methods and revise them, if needed, to better achieve biological goals and objectives of the Plan. Furthermore, OCTA will conduct follow up monitoring of restoration projects approved for funding (approximately every 5 to 10 years over the duration of the permit term) to be able to evaluate the success of the restoration projects and apply “lessons-learned” to future restoration activities.

Plan Implementation (Chapter 8)

OCTA is responsible for implementation of the Plan. OCTA will act as the NCCP/HCP Administrator and will be responsible for filling the roles of Preserve Manager and the Monitoring Biologist, either directly with OCTA staff or by delegation to another entity (e.g., to public entities such as Orange County Parks or State Parks, or to a contracted private entity). Other entities/organizations participating in Plan implementation include: (1) the EOC, which will continue to serve as the interagency and public forum for decisions and oversight; (2) the OCTA Board of Directors, which will provide final decision making authority on substantial matters; (3) restoration project sponsors who implement the restoration projects; (4) restoration project land management entities who will provide long-term management of the restoration project locations for biological value; (5) Caltrans, which is primarily responsible for the construction of freeway improvement projects and will be required to follow all applicable avoidance and minimization measures; and (6) the Wildlife Agencies, which will have an active role in the oversight and administration of the Plan. OCTA will prepare annual reports summarizing activities over the previous year and present results at a public meeting(s).

Plan Funding (Chapter 8, Section 8.3)

Both the NCCPA and ESA require that a conservation plan assure that there is adequate funding to implement the plan’s conservation actions. The primary source of funding for the Plan will come from the M2 transportation sales tax designed to raise money to improve Orange County’s transportation system. As part of the M2 sales tax initiative, a minimum of 5% of the revenues from the freeway program will be set aside for M2 EMP revenues to be used for “programmatic mitigation.” OCTA has estimated (based on 2016 projections) that EMP revenues will total approximately \$285 million. The estimated expenditures for the development and implementation of the Plan (including Preserve acquisitions, recordation of conservation easements, Preserve management and monitoring, funding of restoration projects, program management, and interest of early action plan) totals approximately \$144 million. This estimate includes adequate funding to establish a permanent, non-wasting endowment to cover the long-term annual expenses of (1) Preserve management (general maintenance, access control, enforcement, public outreach, etc.), (2) adaptive management, (3) effectiveness biological monitoring, (4) ongoing program management, and (5) responding to changed circumstances. OCTA will ensure that a non-wasting endowment is established, per the review and approval of the Wildlife Agencies. The assumption for this Plan is that OCTA will be responsible for establishing the endowment, with a third party entity or entities managing the endowment in coordination with the Wildlife Agencies and EOC. OCTA will retain an option to manage the endowment itself, or a part, if there is an accompanying financial or administrative benefit for Plan implementation. An initial estimate of the endowment funding requirements has been developed using a real interest rate of 2.5%. The 2.5% real interest rate is an estimate that is consistent with rates used by third party entities that hold endowments for open space preserves. Within the 5 to 7 years of Plan approval, the OCTA Board of Directors, in

coordination with the Wildlife Agencies and the EOC, will make a determination of the appropriate endowment management entity and capitalization rate for the Plan, which will be used to determine the ultimate endowment needed to meet this Plan's commitments. Once OCTA has established an endowment to fund management and monitoring of Preserves and the endowment has been reviewed and approved by the Wildlife Agencies, the endowment is deemed to be adequate funding to carry out the obligations under the Plan and the Wildlife Agencies shall not require additional funding from OCTA.

Assurances (Chapter 8, Section 8.6)

Provisions of the NCCPA and ESA regulations provide for regulatory assurances to parties covered by approved NCCPs or HCPs. If unforeseen circumstances occur that adversely affect species covered by an NCCP or HCP, the Wildlife Agencies will not require additional land, water, or financial compensation or impose additional restrictions on the use of land, water, or other natural resources as mitigation for Covered Activities without the consent of OCTA.

Table ES-1. Summary of Conservation Analysis for Plan Targets

Biometrics	Total within Plan Area	Freeway Improvement Projects		Preserve Activities	Plan Targets ⁴	Conservation Actions		Conservation Above or Below Target
		Direct Effects ¹	Indirect Effects ²	Direct Effects ³		Preserve Acquisitions	Restoration Projects	
<i>Natural Communities (acres)</i>								
Chaparral	82,965	5.0	41.9	5.9	42.8	562.0	4.0	523.2
Coniferous Forest	1,930	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grasslands ⁵	41,635	108.1	280.9	0.8	358.3	74.2	78.4	-205.7
Riparian	4,457	5.0	57.0	0.2	38.9	18.3	110.4	89.8
Scrub	59,427	10.0	85.2	2.8	68.2	261.9	140.8	334.5
Water	2,696	0.4	0.1	0.0	0.9	0.0	1.0	0.1
Wet Meadows/ Marsh	2,235	2.5	0.0	0.0	5.0	0.0	5.0	0.0
Woodland	13,995	10.0	19.3	3.3	36.3	316.1	17.8	297.6
Totals	209,340	141.0	484.4	13.0	550.4	1,232.5	357.4	1,039.5
<i>Predicted Species Habitat Models (acres)</i>								
<i>Plants</i>								
Intermediate Mariposa Lily	55,623	3.9	28.1	3.3	28.5	315.7	0.0	287.2
Many-stemmed Dudleya	91,237	11.1	83.7	8.2	80.5	776.9	0.0	696.4
Southern Tarplant	5,963	9.2	35.3	0.1	36.2	9.3	31.2	4.3
<i>Fish</i>								
Arroyo Chub	69	0.1	1.9	0.0	1.1	0.1	13.0	12.0

Table ES-1. Summary of Conservation Analysis for Plan Targets (cont.)

Biometrics	Total within Plan Area	Freeway Improvement Projects		Preserve Activities	Plan Targets ⁴	Conservation Actions		Conservation Above or Below Target
		Direct Effects ¹	Indirect Effects ²	Direct Effects ³		Preserve Acquisitions	Restoration Projects	
<i>Reptiles</i>								
Coast Horned Lizard	96,100	63.4	184.2	5.6	230.2	529.8	140.8	440.4
Orangethroat Whiptail	23,469	45.1	110.7	0.5	146.7	52.1	140.8	46.2
Western Pond Turtle—Aquatic	5,963	3.1	16.5	0.1	14.7	9.9	22.1	17.3
Western Pond Turtle—Upland	90,120	45.8	283.8	5.9	245.3	561.2	88.3	404.2
<i>Birds</i>								
Cactus Wren	55,651	9.7	85.2	2.7	67.4	254.7	14.5	201.8
Coastal California Gnatcatcher	65,608	10.3	96.0	4.5	77.5	422.1	140.8	485.4
Least Bell's Vireo	4,466	4.9	55.2	0.1	37.5	8.7	110.4	81.6
Southwestern Willow Flycatcher	4,807	5.1	60.5	0.1	40.6	8.7	110.4	78.5
<i>Mammals</i>								
Bobcat	189,607	45.9	246.0	13.0	240.8	1,232.5	311.7	1,303.4
Mountain Lion	140,725	24.5	118.8	10.7	129.7	1,013.3	130.4	1,014.0
<i>Critical Habitat</i>								
Coastal California Gnatcatcher	18,752	53.9	182.7	6.4	212.0	608.5	5.5	402.0

¹ Estimated direct effects are based on a “planning-level” footprint. Actual effects are expected to be less through the implementation of avoidance and minimization measures. The amount of direct effects for individual habitat types and predicted species habitat models have been adjusted to address the low precision and accuracy of the regional habitat data and allowance for habitat types with small amount of impacts to serve as a reasonable cap to direct effects under the Plan.

² Indirect effects have been estimated using a 300-foot buffer around direct effect areas.

³ Direct effects associated with Preserve implementation activities (new trails, kiosks, maintenance facilities, etc.) have been estimated to be no more than 13 acres of natural habitat (approximately 1% of the Preserves). Because the location of the Preserve activity effects is not known at this time, a conservative estimate has been taken based on the proportion of the biometric within the Preserves. Actual effects on sensitive habitats are expected to be less through the implementation of avoidance and minimization measures.

⁴ Plan targets were calculated using the following formula: (direct effects * 2) + (indirect effects * 0.5).

⁵ Grasslands—All natural community types are substantially above their targets except for grasslands. The negative conservation balance for grasslands is, however, offset based on the following considerations: (a) direct and indirect effects on grasslands will generally occur for small patches of disturbed, predominantly nonnative grasslands along freeway edges that have low biological value; (b) conservation of grassland is occurring within large, intact areas of protected natural habitat that have a high biological value; (c) Preserve acquisitions include large patches of native grasslands; and (d) the Plan results in conservation of other sensitive habitats, including scrub, riparian, and woodlands, that exceed Plan targets.

Table ES-2. Biological Goals, Objectives, and Conservation Actions

Biological Goal or Objective	Conservation Actions ¹
Landscape Level Biological Goals and Objectives	
Landscape Goal 1: Protect, manage, and enhance natural landscapes that result in conservation of areas large enough to support ecological integrity and sustainable populations of Covered Species, and are linked to each other and/or other areas of protected habitat in or adjacent to the Plan Area.	
<u>Landscape Objective 1.1:</u> OCTA will conserve and manage natural landscape within core and linkage areas contiguous with existing protected lands.	Acquire. OCTA has acquired seven Preserves—Aliso Canyon, Ferber Ranch, Hafen, Hayashi, MacPherson, O'Neill Oaks, and Saddle Creek South—totaling 1,232.5 acres of natural habitat. In all instances, the seven Preserves are located within priority conservation areas (as defined by the CBI (CBI 2009) and immediately adjacent to other protected lands. These Preserves add to the protection of large blocks of natural open space in areas important for regional conservation.
<u>Landscape Objective 1.2:</u> OCTA will fund and successfully implement restoration projects within the Plan Area to restore or enhance habitat that supports populations of Covered Species and natural landscapes.	Restore. OCTA has approved for funding 11 restoration projects to date, totaling an estimated 357.4 acres of restored habitats. The restoration projects occur throughout the Plan Area in core habitat areas and within key habitat linkages and riparian corridors. The restoration projects are on lands that are either currently protected or are in the process of being protected through a conservation easement or an equivalent long-term protection mechanism approved by the Wildlife Agencies, and will enhance habitats that support Covered Species, including coastal sage scrub, cactus scrub, riparian, wetlands, and woodland habitats.
Landscape Goal 2: Protect and enhance natural and semi-natural landscapes important to maintain wildlife movement within the Plan Area.	
<u>Landscape Objective 2.1:</u> OCTA will acquire, protect, and manage natural landscapes that help to secure wildlife movement corridors and provide landscape connectivity.	Acquire. OCTA has acquired four Preserves—Ferber Ranch, Hafen, O'Neill Oaks, and Saddle Creek South—totaling 592.0 acres of natural habitat in the Trabuco Canyon area. The MacPherson Preserve (200.0 acres) was also acquired and is within the Silverado Canyon. These Preserves provide a significant addition to the protection of open space in a region of the Plan Area that provides connectivity between O'Neill Park, Cleveland National Forest, the Central-Coastal NCCP/HCP Central reserve system, and Orange County Southern Subregion HCP reserve system. In addition, OCTA has acquired the Hayashi Preserve in the Chino Hills area that provides 291.2 acres of natural habitat in a location that provides connectivity between the Puente Hills to the northwest and Santa Ana Mountains to the south..
<u>Landscape Objective 2.2:</u> OCTA will restore or enhance habitat through restoration projects that improve habitat connectivity and wildlife movement through existing protected lands.	Restore. Of the 11 restoration projects OCTA has approved for funding to date, five (totaling 179.7 acres of restored habitat) are located in areas highly important for habitat connectivity and wildlife movement and/or include specific design features (e.g., improve directional fencing to wildlife crossings) to promote wildlife movement. These restoration projects include North Coal Canyon (located in the Coal Canyon Linkage mapped by the CBI (CBI 2009)), West Loma (directional fencing to reduce roadkill on the 241 toll road), Big Bend (essential connection between Aliso and Wood Canyons Wilderness Park to the Laguna Coast Wilderness Park), Aliso Creek (riparian corridor linking several open space Preserves), and City Parcel (located in the Trabuco and San Juan Creeks Linkage mapped by CBI (CBI 2009)).

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹												
<u>Landscape Objective 2.3</u> : OCTA will set forth policies and procedures requiring the planning and execution of covered freeway improvement projects in a manner that maintains and, if feasible, enhances wildlife connectivity through existing structures. OCTA will provide monitoring, when and where appropriate, to demonstrate this objective has been met.	Policy. The Wildlife Crossing Policy (see Section 5.6.2.3) is an avoidance and minimization measure, and requires covered freeway improvement projects be evaluated during pre-project surveys to determine if existing structures function as wildlife movement corridors. OCTA will require that appropriate design features are implemented to ensure that the wildlife crossing continues to function after the freeway construction improvements are completed. OCTA will provide a technical report summarizing design recommendations for review and approval by the Wildlife Agencies prior to final design. This technical report will set forth appropriate monitoring requirements of the wildlife crossing using guidance outlined in the Caltrans <i>Wildlife Crossing Guidance Manual</i> .												
Landscape Goal 3: OCTA will protect, enhance, and/or restore natural landscapes within a range of environmental gradients and contiguous to other protected areas to allow for shifting species distributions in response to catastrophic events (e.g., fire, prolonged drought) or changed circumstances (e.g., climate change).													
<u>Landscape Objective 3.1</u> : OCTA will acquire and/or restore natural landscapes within elevation ranges (0–500; 500–1,000; 1,000–1,500; 1,500–2,000 feet). The conservation and restoration of Covered Species habitat in or contiguous with existing Preserve lands will benefit potential shifting species distributions in response to catastrophic events and changed circumstances.	<p>Acquire and Restore. OCTA has acquired Preserves and approved for funding restoration projects within different elevation ranges:</p> <table> <tr> <th><u>Elevation Range</u></th><th><u>Combined Preserve and Restoration Acres</u></th></tr> <tr> <td>0–500 feet</td><td>223.0</td></tr> <tr> <td>500–1,000 feet</td><td>328.2</td></tr> <tr> <td>1,000–1,500 feet</td><td>957.2</td></tr> <tr> <td>1,500–2,000 feet</td><td>81.5</td></tr> </table> <p>Areas of the Plan Area at higher elevations (over 2,000 feet) already have a high percent of protected lands (CBI 2009).</p>	<u>Elevation Range</u>	<u>Combined Preserve and Restoration Acres</u>	0–500 feet	223.0	500–1,000 feet	328.2	1,000–1,500 feet	957.2	1,500–2,000 feet	81.5		
<u>Elevation Range</u>	<u>Combined Preserve and Restoration Acres</u>												
0–500 feet	223.0												
500–1,000 feet	328.2												
1,000–1,500 feet	957.2												
1,500–2,000 feet	81.5												
Landscape Goal 4: Protect and enhance habitat in geographically distinct areas across the Plan Area to conserve species by facilitating/promoting genetic exchange.													
<u>Landscape Objective 4.1</u> : OCTA will acquire and/or restore natural landscapes within most of the major watersheds (HUC8) and a majority of the core and linkage areas that are contributing to genetic exchange within these areas.	<p>Acquire and Restore. OCTA has acquired Preserves and approved funding for restoration projects within all of the major watersheds:</p> <table> <tr> <th><u>Watersheds (HUC8)</u></th><th><u>Combined Preserve and Restoration Acres</u></th></tr> <tr> <td>Aliso – San Onofre</td><td>850.6</td></tr> <tr> <td>Newport Bay</td><td>15.7</td></tr> <tr> <td>San Gabriel</td><td>313.1</td></tr> <tr> <td>Santa Ana</td><td>402.3</td></tr> <tr> <td>Seal Beach</td><td>8.2</td></tr> </table> <p>In addition, OCTA has acquired Preserves and/or approved funding for restoration projects in 9 of the 12 core and linkage areas mapped by CBI (CBI 2009).</p>	<u>Watersheds (HUC8)</u>	<u>Combined Preserve and Restoration Acres</u>	Aliso – San Onofre	850.6	Newport Bay	15.7	San Gabriel	313.1	Santa Ana	402.3	Seal Beach	8.2
<u>Watersheds (HUC8)</u>	<u>Combined Preserve and Restoration Acres</u>												
Aliso – San Onofre	850.6												
Newport Bay	15.7												
San Gabriel	313.1												
Santa Ana	402.3												
Seal Beach	8.2												

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
Natural Community Level Biological Goals and Objectives	
Natural Community Goal 1: Protect, manage, and enhance natural communities to promote native biodiversity.	
Natural Community Objective 1.1 <u>(Chaparral)</u> : OCTA will acquire and/or restore chaparral habitat to promote conservation of native biodiversity and connectivity that benefit Covered Species of the chaparral natural community.	Acquire and Restore. OCTA has acquired seven Preserves that include a total of 562.0 acres of chaparral habitat. A majority of the Aliso Canyon (84%), Hafen (66%), MacPherson (72%) and O'Neill Oaks (71%) Preserves include chaparral natural communities. In addition, the Agua Chinon/Bee Flat Canyon restoration project includes 4.0 acres of chaparral habitat restoration and/or enhancement. The conservation and restoration of chaparral habitat will benefit coast horned lizard, orangethroat whiptail, bobcat, and mountain lion (limited range).
Natural Community Objective 1.2 <u>(Grassland)</u> : OCTA will acquire and/or restore grassland habitat to promote native biodiversity and connectivity that benefit Covered Species of the grassland natural community.	Acquire and Restore. OCTA has acquired the Aliso Canyon, Ferber Ranch, Hayashi, and MacPherson Preserves, which have a combined 74.2 acres of grassland habitat. Native grassland has been mapped on both the Ferber Ranch and Hayashi Preserves with large patches of high quality native grassland habitat (totaling 17.1 acres) occurring on the Ferber Ranch property. OCTA will ensure appropriate management actions to protect and enhance the native grassland patches in both Preserves will be completed in accordance with the requirements incorporated into the Ferber Ranch and Hayashi resource management plans (RMPs). In addition, OCTA has approved funding for four restoration projects that include restoration of grassland habitats totaling 78.4 acres. Together these efforts amount to 152.6 acres of grassland habitat acquired and/or restored.
Natural Community Objective 1.3 <u>(Riparian)</u> : OCTA will acquire and/or restore riparian habitat in multiple locations across the Plan Area. These actions will enhance and expand riparian communities in key locations for wildlife movement, provide potentially suitable live-in and dispersal habitat for some of the Covered Species, and promote native biodiversity and connectivity to benefit many of the Covered Species.	Acquire and Restore. OCTA has acquired four Preserves—Ferber Ranch, Hafen, Hayashi, and MacPherson—that have a total of 18.3 acres of riparian habitat. On the Hayashi Preserve, OCTA has undertaken steps to remove grazing within the riparian zone (using fencing) to allow the riparian habitat to passively recover and expand. In addition, 9 of the 11 restoration projects OCTA has approved for funding to date include riparian habitat restoration totaling 110.4 acres. The riparian restoration projects occur within areas important for regional conservation, including large sized restoration projects along Aliso Creek and Lower Silverado Canyon. Conservation of riparian habitat will benefit Covered Species that rely on healthy streambed ecosystems (western pond turtle), riparian nesting birds (least Bell's vireo and southwestern willow flycatcher), and mammals using riparian habitat for movement cover (bobcat, mountain lion).

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
<p>Natural Community Objective 1.4 (Scrub): OCTA will acquire and/or restore scrub habitat. These actions will enhance and expand scrub habitat in key locations for wildlife movement, provide potentially suitable nesting habitat for Covered Species, and promote native biodiversity and connectivity that benefit Covered Species of the scrub natural community.</p>	<p>Acquire and Restore. OCTA has acquired six Preserves—Aliso Canyon, Ferber Ranch, Hafen, MacPherson, O'Neill Oaks, and Saddle Creek South—that have a total of 261.9 acres of scrub habitat. These Preserves support nesting populations of coastal California gnatcatcher and cactus wren and add to the protection of an important block of scrub habitat between the Orange County Southern Subregion HCP and Central-Coastal NCCP/HCP reserve systems. In addition, OCTA has approved for funding two restoration projects—UC Irvine Ecological Reserve and Chino Hills State Park—that include 14.5 acres of cactus scrub habitat in locations known to support cactus wren and seven restoration projects that included coastal sage scrub habitat (126.3 acres) that will enhance and expand habitat for the coastal California gnatcatcher. This amounts to a total of 402.6 acres of scrub habitat that has been acquired and/or will be restored.</p>
<p>Natural Community Objective 1.5 (Woodland): OCTA will acquire and/or restore woodland habitat. These actions will enhance and expand woodland habitat for foraging and cover by Covered Species, and will promote native biodiversity and connectivity that benefit Covered Species of the woodland natural community.</p>	<p>Acquire and Restore. OCTA has acquired six Preserves—Ferber Ranch, Hafen, Hayashi, MacPherson, O'Neill Oaks, and Saddle Creek South—that include a total of 316.1 acres of woodland habitat. A majority of the Hayashi (64%) Preserve includes woodland habitat, including 11.6 acres of coast live oak woodland and 174.4 acres of California walnut woodland. The California walnut woodland is a habitat type considered of special concern by the state and found to be under protected (CBI 2009). In addition, the Agua Chion/Bee Flat Canyon restoration project includes 17.8 acres of woodland habitat restoration and/or enhancement. A wide range of species use woodlands for reproduction, foraging, shelter, and dispersal, including bobcat and mountain lion.</p>
<p>Natural Community Goal 2: Maintain and enhance riparian and wetland function and values to benefit Covered Species and promote native biodiversity.</p>	
<p>Natural Community Objective 2.1: OCTA will acquire, restore and/or enhance areas with aquatic resources (per CDFW jurisdiction). These conservation actions will protect riparian and wetlands functions and values by improving the condition and integrity of the physical streambed, aquatic and riparian habitat, and hydrology.</p>	<p>Acquire and Restore. For all of the Preserves that OCTA has acquired and 6 of the 11 restoration projects approved for funding by OCTA, detailed jurisdictional delineations have been completed to identify and map the extent of aquatic resources within the Preserve/project boundaries. A total of 86.0 acres of aquatic resources (per CDFW jurisdiction) occurs within the Preserves, and approximately 101.5 acres of aquatic resources will be restored, enhanced, and/or rehabilitated through the restoration projects. The conservation actions protect riparian and wetland functions and values, and will mitigate any unavoidable impacts on aquatic resources resulting from Covered Activities.</p>
<p>Natural Community Objective 2.2: OCTA will set forth policies and procedures to ensure Covered Activities result in no net loss of wetland habitat values and acreage in the Plan Area.</p>	<p>Policy. The Plan sets forth the Streambed Program (Section 5.7 and Appendix E, "Streambed Program Guidelines") designed to protect, and compensate for unavoidable impacts on streambed areas and riparian/wetland habitats under jurisdiction of CDFW. Table E-2 in Appendix E shows that impacts will be mitigated using mitigation ratios depending on the type and quality of resources affected and timing of mitigation. OCTA will track impacts and mitigation of aquatic resources by habitat type and acreage using a Mitigation Ledger and provide a summary in an annual report.</p>

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
Species Level Biological Goals and Objectives	
Species Goal 1: Provide conservation of intermediate mariposa lily within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 1.1:</u> OCTA will acquire Preserves with occurrences of intermediate mariposa lily. OCTA will ensure that appropriate management and monitoring actions are incorporated into the RMPs for each Preserve to support sustainable populations of intermediate mariposa lily.	Acquire. OCTA completed baseline biological surveys of the seven Preserves and during these surveys, six of the seven Preserves—Aliso Canyon, Ferber Ranch, Hafen, MacPherson, O'Neill Oaks, and Saddle Creek South—had a total of 93 identified locations, with a minimum population of 597 plants, of intermediate mariposa lily. OCTA will protect and monitor these locations and any future locations found, as part of the Preserve RMPs.
<u>Species Objective 1.2:</u> OCTA will establish policies and procedures that require OCTA to identify, track, mitigate, and report annually any unavoidable impacts on intermediate mariposa lily.	Policy. The Plan includes the Covered Plant Species Policy (see Section 5.6.2.2) which sets forth policies and procedures requiring OCTA to evaluate impacts based on project-specific field surveys of the Covered Activities and to mitigate any unavoidable impacts (at a 3:1 ratio) using credits determined through field surveys of Preserves and actions taken to enhance, restore, and create populations of covered plant species as part of restoration projects approved for funding by OCTA. OCTA will maintain a ledger-type accounting system to track credits and debits and report status as part of the Plan's annual report.
Species Goal 2: Provide conservation of many-stemmed dudleya within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 2.1:</u> OCTA will acquire a Preserve and/or implement a restoration project resulting in the protection, enhancement, and/or creation of a major population (i.e., 500 individuals) of many-stemmed dudleya.	Restore. To ensure that the Plan provides conservation and management for many-stemmed dudleya, OCTA will protect, enhance, and/or establish a major population (i.e., 500 individuals) of many-stemmed dudleya. During baseline biological surveys of the Aliso Canyon Preserve, four occurrences with a total of 60 individuals were detected. Ongoing Preserve management may improve habitat suitability (e.g., reduction of invasive species) that results in the expansion of the existing population on Aliso Canyon Preserve and/or establishment/detection of new populations on the other OCTA Preserves. Also, future non-drought conditions may result in the detection of new occurrences at Aliso Canyon. If a minimum of 500 individuals are eventually identified on the Preserves or within the approved restoration projects (see Species Objective 2.2) within the 10 years from Plan adoption, then this objective will be considered complete. If this objective cannot be met within the first 10 years as described, OCTA will select and oversee implementation of a restoration project designed to establish or expand a population of many-stemmed dudleya and will result in an increase of a current population or establishment of a new population such that a minimum of 500 individuals is achieved.
<u>Species Objective 2.2:</u> OCTA will implement restoration projects where there are known occurrences of many-stemmed dudleya in the project vicinity. The restoration actions will to improve and enhance potentially suitable habitat for many-stemmed dudleya.	Restore. OCTA has approved for funding two restoration projects, West Loma and Big Bend; many-stemmed dudleya has been mapped in the vicinity of both projects. This plant is capable of self-fertilization and remains dormant as an underground corm in the dry months (June–November). The restoration actions have the potential to improve habitat conditions for many-stemmed dudleya to establish.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
<u>Species Objective 2.3</u> : OCTA will establish policies and procedures that require OCTA to identify, track, mitigate, and report annually any unavoidable impacts on many-stemmed dudleya.	Policy. The Plan includes the Covered Plant Species Policy (see Section 5.6.2.2) which sets forth policies and procedures requiring OCTA to evaluate impacts based on project-specific field surveys of the Covered Activities and to mitigate any impacts (at a 3:1 ratio) using credits determined through field surveys of Preserves and actions taken to enhance, restore, and create populations of covered plant species as part of restoration projects approved for funding by OCTA. OCTA will maintain a ledger-type accounting system to track credits and debits and report status as part of the Plan's annual report.
Species Goal 3: Provide conservation of southern tarplant within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 3.1</u> : OCTA will implement a restoration project in an area with known occurrences of southern tarplant. The restoration design plan includes elements to promote the expansion of southern tarplant as part of the restoration efforts.	Restore. OCTA has approved for funding the Harriet Weider Regional Park restoration project that has southern tarplant mapped in the project vicinity. The restoration project sponsor has agreed to include specific measures as part of the restoration project design plan to achieve the establishment of southern tarplant. Southern tarplant seeds have been harvested from mature plants near the restoration site, and they will be included in the restoration seed mix. OCTA will ensure the restoration project sponsor conducts focused surveys for southern tarplant as part of their monitoring efforts to quantify the population established through the restoration process.
<u>Species Objective 3.2</u> : OCTA will establish policies and procedures that require OCTA to identify, track, mitigate, and report annually any unavoidable impacts on southern tarplant.	Policy. The Plan includes the Covered Plant Species Policy (see Section 5.6.2.2), which sets forth policies and procedures requiring OCTA to evaluate impacts based on project-specific field surveys of the Covered Activities and to mitigate any impacts (at a 3:1 ratio) using credits determined through field surveys of Preserves and actions taken to enhance, restore, and create populations of covered plant species as part of restoration projects approved for funding by OCTA. OCTA will maintain a ledger-type accounting system to track credits and debits and report status as part of the Plan's annual report.
Species Goal 4: Provide conservation of arroyo chub within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 4.1</u> : OCTA will restore and enhance riparian habitat in the areas that potentially support arroyo chub and conserve natural habitat in the headwaters of a stream supporting arroyo chub to protect in-stream water quality.	Restore and Acquire. The City Parcel restoration project approved for funding by OCTA results in 13.0 acres of riparian restoration along lower reaches of Trabuco Creek. This restoration effort includes removal of nonnative plant species, removal of debris and trash, and planting of native plant species. These restoration activities will contribute to the improvement of the natural hydrological functions and water quality for this important coastal stream course and will improve Trabuco Creek as habitat for arroyo chub. In addition, OCTA has acquired the Ferber Ranch, Hafen, and O'Neill Oaks Preserves, which are located in headwaters of Trabuco Creek. The protection of 540.7 acres of natural habitat in this location contributes to the protection of water quality, sedimentation, and hydrological processes important for arroyo chub habitat downstream in Trabuco Creek.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
<u>Species Objective 4.2:</u> OCTA will implement a restoration project focused on improving habitat conditions for arroyo chub, such as improving water quality, removing nonnative aquatic species, or modifying check dams to allow passage, to support sustainable populations in occupied areas.	Restore. OCTA will fund a future restoration project that will achieve a direct benefit to an existing population of arroyo chub. This restoration project could include actions to improve water quality in a subwatershed known to have arroyo chub (e.g., in Bell Canyon), removal or modification of check dams to facilitate fish passage (e.g., along San Juan Creek in U.S. Forest Service lands), and/or a focused nonnative fish removal within a select tributary (e.g., fish trapping of source populations of nonnatives in Oso Creek).
<u>Species Objective 4.3:</u> OCTA will establish policies and procedures to avoid and minimize impacts on arroyo chub and its habitat.	Policy. The Plan includes the Aquatic Resources and Species Policy that outlines appropriate avoidance and minimization measures for construction activities in aquatic resources, such as rivers, creeks, and riparian areas. The Construction Lead will retain a qualified biologist during any project that could impact potential arroyo chub habitat to determine if arroyo chub might be present and subject to potential injury or mortality from construction activities. When arroyo chub are present, the project biologist will identify appropriate methods to capture, handle, exclude, and/or relocate those individuals. All fish exclusion and salvage activities will adhere to accepted National Oceanic and Atmospheric Administration Fisheries Service and CDFW protocols. Other policies that will provide for the protection of arroyo chub include the Avoidance and Minimization of Sensitive Biological Areas, Wildlife Crossing Policy, Stormwater and Water Quality BMPs, Wildfire Protection Techniques, and Wetland and Riparian Streambed Protection Program.
Species Goal 5: Provide conservation of coast horned lizard within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 5.1:</u> OCTA will acquire Preserves with natural habitat that includes areas with loose, fine soils with high sand fraction, open areas with limited overstory for basking, and other features known to support coast horned lizard and OCTA will ensure that appropriate management monitoring actions are incorporated into the RMPs for each Preserve that includes suitable habitat for coast horned lizard.	Acquire. OCTA has acquired seven Preserves—Aliso Canyon, Ferber Ranch, Hafen, Hayashi, MacPherson, O'Neill Oaks, and Saddle Creek South—totaling 1,232.5 acres of natural habitat. During baseline biological surveys completed for these Preserves in 2012 and 2015, it was noted that each of these Preserves provides quality habitat features for coast horned lizard.
Species Goal 6: Provide conservation of orangethroat whiptail within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 6.1:</u> OCTA will acquire Preserves that have documented occurrences of orangethroat whiptail. OCTA will ensure that appropriate management and monitoring actions are incorporated into the RMPs for each Preserve to protect and maintain habitat to support sustainable populations of orangethroat whiptail.	Acquire. During the baseline biological surveys of the seven acquired Preserves, it was noted that all of these Preserves provide quality habitat features for orangethroat whiptail and occurrences were identified on the Ferber Ranch, O'Neill Oaks and MacPherson Preserves.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
Species Goal 7: Provide conservation of western pond turtle within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 7.1:</u> OCTA will acquire a Preserve(s) with the potential to expand western pond turtle populations, potentially via translocation. OCTA will enhance the riparian and streambed habitat within the Preserve(s) to create and/or improve permanent and intermittent water sources that could provide habitat for western pond turtle.	Acquire. OCTA has acquired the Hayashi Preserve in the Chino Hills area that has had incidental observations of western pond turtle (observed in 2011) by Chino Hills State Park staff. OCTA has undertaken steps to remove grazing within the Soquel Canyon riparian zone (using fencing) to allow the riparian habitat along this drainage to passively recover and expand. OCTA will include appropriate management actions to protect and/or enhance western pond turtle habitat and locations, such as monitoring and as-needed adaptive management through collaboration with, and agreement between, OCTA and the Wildlife Agencies, as part of the Preserve RMP.
<u>Species Objective 7.2:</u> OCTA will implement a restoration project that will directly benefit known populations of western pond turtle by removing nonnative invasive plant species degrading the stream course, expanding ponds and open water, and/or exposing potential basking sites.	Restore. OCTA has approved for funding the Aliso Creek restoration project, which involves 55 acres of riparian and transitional habitat restoration, including the removal of dense stands of arundo that have clogged the stream course and substantially degraded the quality of the stream as habitat for western pond turtle. There are four known occurrences of western pond turtle within the restoration project site. The restoration actions will improve western pond turtle habitat by improving water quality and aquatic habitat (exposing ponds and basking sites), enhancing aestivation habitat and access to aestivation habitat, and improving upland nesting habitat.
<u>Species Objective 7.3:</u> OCTA will establish policies and procedures to avoid and minimize impacts on western pond turtle and its habitat.	Policy. The Plan includes the Aquatic Resources and Species Policy that outlines appropriate avoidance and minimization measures for construction activities in aquatic resources, such as rivers, creeks, and riparian areas. Prior to ground-disturbing activities in or near aquatic habitats, OCTA will conduct preconstruction surveys for western pond turtles to determine their presence or absence within the construction footprint. If western pond turtles are found within the construction footprint, the occupied habitat and appropriate buffer, as determined by a qualified biologist, will be avoided to the maximum extent practicable. If avoidance is not possible and the species is determined to be present in work areas, the biologist may capture turtles prior to construction activities and relocate them to nearby suitable habitat a minimum of 300 feet downstream from the work area. Alternatively, if recommended/approved by the Wildlife Agencies, the turtles may be captured and either temporarily held or relocated to an appropriate nearby location. Other policies that will provide for the protection of western pond turtle include the Avoidance and Minimization of Sensitive Biological Areas, Wildlife Crossing Policy, Stormwater and Water Quality BMPs, Wildfire Protection Techniques, and Wetland and Riparian Streambed Protection Program.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
Species Goal 8: Provide conservation of cactus wren within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 8.1:</u> OCTA will protect and manage blocks of occupied cactus wren habitat to support sustainable populations and maintain habitat linkages between cactus wren populations within the Plan Area.	Acquire. OCTA has acquired four Preserves—Ferber Ranch, Hafen, O'Neill Oaks, and Saddle Creek South in the Trabuco Canyon area—that support nesting populations of cactus wren and add to the protection of an important block of cactus scrub patches between the Orange County Southern Subregion HCP and the Central-Coastal NCCP/HCP reserve systems. During the 2012 baseline biological surveys of the Preserves, cactus wren occurrences were recorded on these Preserves.
<u>Species Objective 8.2:</u> OCTA will implement restoration project(s) focused on creating cactus scrub habitat to expand habitat in areas of known cactus wren populations.	Restore. OCTA has approved for funding two restoration projects—UC Irvine Ecological Reserve and Chino Hills State Park—that include 14.5 acres of cactus scrub habitat in locations known to support cactus wren.
<u>Species Objective 8.3:</u> OCTA will establish policies and procedures to avoid and minimize impacts on cactus wren habitat, including cactus scrub.	Policy: The Plan includes the policies that will require covered freeway improvement projects to be designed in a manner that avoids and/or minimizes impacts on sensitive biological resources, including cactus scrub. Temporary staging areas, access roads, and other project components that have the flexibility to be sited outside of sensitive areas will be incorporated into the project design. Best management practices will be followed to delineate environmentally sensitive areas and provide for training and monitoring to ensure these areas are protected. If temporary impacts on cactus sage scrub cannot be avoided, these areas will be restored to their previous conditions. Other policies that will provide for the protection of cactus wren include the Nesting Birds Policy and Wildfire Protection Techniques.
Species Goal 9: Provide conservation of coastal California gnatcatcher within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 9.1:</u> OCTA will protect and manage blocks of occupied gnatcatcher nesting habitat to support sustainable populations and maintain habitat linkages between coastal California gnatcatcher populations within the Plan Area.	Acquire. OCTA has acquired six Preserves—Aliso, Canyon, Ferber Ranch, Hafen, MacPherson, O'Neill Oaks, and Saddle Creek South—that protect coastal sage scrub habitat and/or support nesting populations of coastal California gnatcatchers. These Preserves add to the protection of important blocks of coastal sage scrub between the Orange County Southern Subregion HCP and Central-Coastal NCCP/HCP reserve systems and provide suitable habitat at a low elevation for movement of gnatcatchers. During the baseline biological surveys of the Preserves, occurrences of coastal California gnatcatchers were noted at the Ferber Ranch and O'Neill Oaks Preserves and adjacent to the Aliso Canyon Preserve. Previous sightings have been recorded at the Saddle Creek South Preserve. Coastal California gnatcatchers were not observed at MacPherson, although coastal sage scrub habitat within this Preserve is high quality and is in large enough patches to support pairs. Although the MacPherson Preserve is near the edge of the elevation range of coastal California gnatcatcher, the location of this Preserve could serve as a habitat refugia from fire and/or a stepping stone for regional connectivity.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
<u>Species Objective 9.2:</u> OCTA will restore and/or enhance coastal sage scrub habitat to expand coastal California gnatcatcher habitat.	Restore. OCTA has approved funding for ten restoration projects that include restoration of coastal sage scrub and cactus scrub habitat, totaling 140.8 acres. The Big Bend, City Parcel, Fairview Park, Harriett Weider Regional Park, Lower Silverado Canyon, UC Irvine Ecological Reserve, Chino Hills State Park, and North Coal Canyon restoration projects will restore coastal sage scrub and cactus scrub habitat in locations important for providing for coastal California gnatcatcher movement and dispersal. The coastal sage scrub restoration that is part of the West Loma and Aqua Chinon/Bee Flat Canyon restoration projects will improve coastal California gnatcatcher habitat within the Central-Coastal NCCP/HCP reserve system.
<u>Species Objective 9.3:</u> OCTA will establish policies and procedures to avoid and minimize impacts on coastal California gnatcatcher habitat, including coastal sage scrub.	Policy: The Plan includes policies that will require covered freeway improvement projects to be designed in a manner that avoids and/or minimizes impacts on sensitive biological resources, including coastal sage scrub. Temporary staging areas, access roads, and other project components that have the flexibility to be sited outside of sensitive areas will be incorporated into the project design. Best management practices will be followed to delineate environmentally sensitive areas and provide for training and monitoring to ensure these areas are protected. If temporary impacts on coastal sage scrub cannot be avoided, the areas will be restored to their previous conditions. Other policies that will provide for the protection of coastal California gnatcatcher include the Nesting Birds Policy and Wildfire Protection Techniques.
Species Goal 10: Provide conservation of least Bell's vireo within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 10.1:</u> OCTA will acquire a Preserve with the potential to enhance riparian habitat to expand least Bell's vireo habitat.	Acquire. OCTA has acquired the Hayashi Preserve in the Chino Hills area, which has an existing riparian corridor along Soquel Canyon that has been historically disturbed by grazing. OCTA has taken steps to remove grazing from the riparian corridor by installing fencing to allow for the passive restoration of riparian habitat. In similar situations in the Chino Hills State Park, shortly after grazing was removed from the riparian zone, the habitat recovered and least Bell's vireo moved in. There are known least Bell's vireo occurrences above and below the Hayashi property, and, as the riparian habitat recovers on this Preserve, there is a strong likelihood it will support least Bell's vireo.
<u>Species Objective 10.2:</u> OCTA will restore and/or enhance riparian habitat adjacent to occupied least Bell's vireo habitat.	Restore. OCTA has approved funding for the Aliso Creek and City Parcel restoration projects, which include restoration of riparian habitat totaling 68.0 acres. Each of these restoration projects has documented occurrences of least Bell's vireo within the project sites. The Aliso Creek restoration has had seven occurrences and City Parcel has had one occurrence that overlaps with the project sites. The riparian habitat restoration and enhancement will provide an immediate benefit to least Bell's vireo nesting habitat.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
<p><u>Species Objective 10.3</u>: OCTA will restore and/or enhance riparian habitat in areas not currently occupied by least Bell's vireo to encourage future expansion of the species distribution within the Plan Area.</p>	<p>Restore. OCTA has approved funding for five restoration projects that include restoration of riparian habitat (totaling 41.4 acres) in locations with documented occurrences of least Bell's vireo in the vicinity. These restoration projects are Fairview Park, Lower Silverado Canyon, Chino Hills, West Loma, and Agua Chinon/Bee Flat Canyon. These riparian habitat restoration projects will create least Bell's vireo habitat and are expected to support least Bell's vireo in the future.</p>
<p><u>Species Objective 10.4</u>: OCTA will establish policies and procedures to avoid and minimize impacts on least Bell's vireo habitat, including riparian habitat.</p>	<p>Policy: The Plan includes policies that will require covered freeway improvement projects to be designed in a manner that avoids and/or minimizes impacts on sensitive biological resources, including riparian habitat. Temporary staging areas, access roads, and other project components that have the flexibility to be sited outside of sensitive areas will be incorporated into the project design. Best management practices will be followed to delineate environmentally sensitive areas and provide for training and monitoring to ensure these areas are protected. If temporary impacts on riparian habitat cannot be avoided, the areas will be restored to their previous conditions. Other policies that will provide for the protection of least Bell's vireo include the Nesting Birds Policy and Wildfire Protection Techniques.</p>
<p>Species Goal 11: Provide conservation of southwestern willow flycatcher habitat within the Plan Area and minimize and mitigate impacts associated with Covered Activities.</p>	
<p><u>Species Objective 11.1</u>: OCTA will restore and/or enhance riparian habitat adjacent to suitable southwestern willow flycatcher habitat.</p>	<p>Restore. OCTA has approved for funding the Aliso Creek restoration project, which includes 55.0 acres of riparian habitat restoration. The Aliso Creek restoration project has had three occurrences of southwestern willow flycatcher within the project site. The riparian habitat restoration and enhancement will provide an immediate benefit to southwestern willow flycatcher habitat.</p>
<p><u>Species Objective 11.2</u>: OCTA will establish policies and procedures to avoid and minimize impacts on southwestern willow flycatcher habitat, including riparian habitat.</p>	<p>Policy: The Plan includes policies that will require covered freeway improvement projects to be designed in a manner that avoids and/or minimizes impacts on sensitive biological resources, including riparian habitat. Temporary staging areas, access roads, and other project components that have the flexibility to be sited outside of sensitive areas will be incorporated into the project design. Best management practices will be followed to delineate environmentally sensitive areas and provide for training and monitoring to ensure these areas are protected. If temporary impacts on riparian habitat cannot be avoided, these areas will be restored to their previous conditions. Other policies that will provide for the protection of southwestern willow flycatcher include the Nesting Birds Policy and Wildfire Protection Techniques.</p>

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
Species Goal 12: Provide conservation of bobcat within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 12.1:</u> OCTA will protect and manage natural habitat that includes a combination of land cover types important for wildlife movement of mammals such as bobcat.	Acquire. OCTA has acquired seven Preserves in the Trabuco/Silverado Canyons, Aliso and Woods Canyon, and Chino Hills areas that include 1,232.5 acres of predicted suitable habitat for bobcat. These Preserves are located in areas important for regional conservation and provide connectivity to other protected lands. They provide a diverse land cover beneficial for mammal movement. Incidental observations of bobcat have been noted on the Hayashi Preserve, and photo monitoring on the O'Neill Oaks and Ferber Ranch Preserve has detected bobcat as well.
<u>Species Objective 12.2:</u> OCTA will implement a restoration project(s) designed to improve wildlife movement by mammals such as bobcat.	Restore. OCTA has approved for funding the West Loma restoration project, which includes fence realignment around a key wildlife corridor in the vicinity of the 241 toll road. With fencing improvements and the restoration of habitat along the wildlife corridor, the crossing becomes more attractive, reduces road kill, and improves connectivity for bobcat and other species.
<u>Species Objective 12.3:</u> OCTA will restore or enhance habitat through restoration projects that improve habitat connectivity and wildlife movement for bobcat.	Restore. OCTA has approved for funding four restoration projects in areas highly important for habitat connectivity and wildlife movement. These restoration projects include North Coal Canyon (located in the Coal Canyon Linkage mapped by CBI [CBI 2009]), Big Bend (essential connection between Aliso and Wood Canyons Wilderness Park to the Laguna Coast Wilderness Park), Aliso Creek (riparian corridor linking several open space Preserves), and the City Parcel (located in the Trabuco and San Juan Creeks Linkage mapped by CBI [CBI 2009]).
<u>Species Objective 12.4:</u> OCTA will establish policies and procedures to protect and maintain wildlife movement corridors.	Policy: The Plan includes the Wildlife Crossing Policy that requires OCTA to perform preconstruction surveys to evaluate if an existing structure contributes to important wildlife movement. If it is determined that an existing structure does function as an important wildlife crossing, the Construction Lead will implement appropriate design features to ensure that the wildlife crossing maintains or improves functionality after the freeway construction improvements are completed.
Species Goal 13: Provide conservation of mountain lion within the Plan Area and minimize and mitigate impacts associated with Covered Activities.	
<u>Species Objective 13.1:</u> OCTA will protect and manage natural habitat that includes a combination of land cover types important for wildlife movement of large mammals such as mountain lion.	Acquire. OCTA has acquired six Preserves in the Trabuco/Silverado Canyon and Chino Hills areas that include 1,013.3 acres of predicted suitable habitat for mountain lion. These Preserves are located in areas important for regional conservation and provide connectivity to other protected lands. They provide a diverse land cover beneficial for large mammal movement. Recent observations of mountain lion have been noted on the O'Neill Oaks and Ferber Ranch Preserves.
<u>Species Objective 13.2:</u> OCTA will implement a restoration project(s) designed to improve wildlife movement by large mammals such as mountain lion.	Restore. OCTA has approved funding for the West Loma restoration project, which includes fence realignment around a key wildlife corridor in the vicinity of the 241 toll road. With fencing improvements and the restoration of habitat along the wildlife corridor, the crossing becomes more attractive, reduces road kill, and improves connectivity.

Table ES-2. Biological Goals, Objectives, and Conservation Actions (cont.)

Biological Goal or Objective	Conservation Actions ¹
<u>Species Objective 13.3</u> : OCTA will restore or enhance habitat through restoration projects that improve habitat connectivity and provide benefits to wildlife movement for mountain lion.	Restore. OCTA has approved funding for the North Coal Canyon restoration project (located in the Coal Canyon Linkage mapped by CBI [CBI 2009]) that is a critical wildlife linkage across Highway 91. This linkage can provide movement opportunities for mountain lions to the Chino Hills State Park. Other restoration projects in the eastern portion of the County (Chino Hills State Park, Lower Silverado Canyon, West Loma, Aqua Chinon/Bee Flat Canyon) includes restoration of riparian or scrub habitat that can provide cover for mountain lion.
<u>Species Objective 13.4</u> : OCTA will establish policies and procedures to avoid and minimize impacts to wildlife movement corridors.	Policy: The Plan includes a Wildlife Crossing Policy that requires OCTA to perform preconstruction surveys to evaluate if an existing structure contributes to important wildlife movement. If it is determined that an existing structure does function as an important wildlife crossing, the Construction Lead will implement appropriate design features to ensure that the wildlife crossing maintains or improves functionality after the freeway construction improvements are completed.

¹ Conservation actions involving restoration projects include an estimate of conserved habitats based on conceptual restoration design plans. The final acreage of restored habitat may be refined during final restoration design and during implementation. Attainment of objectives dependent on restoration actions will be achieved once the restoration project meets the restoration design success criteria.

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IMPLEMENTING AGREEMENT

for the

**ORANGE COUNTY TRANSPORTATION AUTHORITY
NATURAL COMMUNITY CONSERVATION PLAN (NCCP) / HABITAT
CONSERVATION PLAN (HCP)**

by and among

THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

THE UNITED STATES FISH AND WILDLIFE SERVICE,

THE ORANGE COUNTY TRANSPORTATION AUTHORITY,

AND

THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

ADMIN FINAL

2016

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Exhibits

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1.0 PARTIES TO THIS AGREEMENT

The Parties to this Implementing Agreement (Agreement) are the Orange County Transportation Authority (OCTA or Permittee), the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (Service). The Service and CDFW are herein collectively referred to as the Wildlife Agencies.

2.0 RECITALS AND PURPOSES OF THE AGREEMENT

2.1 Recitals

(a) The Service is a federal agency within the United States Department of the Interior charged with responsibility for administering the federal Endangered Species Act (ESA) and providing for the conservation of federally listed species and their habitat. The Service is authorized to issue a Take permit under section 10(a) of ESA for the incidental Take of federally listed animal species provided that the applicant for such a permit submits an HCP that meets permit issuance criteria set forth in section 10 of the ESA.

(b) CDFW is a state agency within the California Natural Resources Agency charged with responsibility for administering the California Endangered Species Act (CESA) and the Natural Community Conservation Planning Act (NCCPA). CDFW is authorized to issue permits under section 2835 of the Fish and Game Code to authorize the Take of any species, whether or not it is listed as an endangered, threatened or candidate species under State law, where the conservation and management of the species is provided for in a Natural Community Conservation Plan (NCCP) approved by CDFW. CDFW enters into this Agreement pursuant to the NCCPA.

(c) The OCTA is the sponsor of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP or Plan). OCTA has undertaken a collaborative, systematic approach to protecting ecologically significant resources, including candidate, threatened and endangered species and their habitats in the Plan Area, and to ensuring that the Covered Activities comply with applicable federal and state laws.

(d) Caltrans is a department of the California State Transportation Agency established under the provisions of the California Government Code Sections 14000 *et seq.* Caltrans is the owner and operator of the State highway system. It is the lead agency for construction and rehabilitation projects undertaken on the State highway system. Caltrans is expected to act as Construction Lead on behalf of OCTA for certain freeway capital improvement projects. Caltrans will implement freeway improvement projects as a Participating Special Entity and OCTA will issue a Certificate of Inclusion to Caltrans on a project-by-project basis that will describe the authorized take and required avoidance and minimization measures.

(e) The Plan Area set forth in Exhibit A, defined below, and as described in the Plan Section 1.2.2.1, has been determined to provide habitat for the Listed Species and Unlisted Species set forth in Exhibit B;

(f) In 2009, OCTA, Caltrans, the Service, and CDFW entered into a Planning Agreement that identified goals, objectives, guidelines, criteria and procedures for the preparation of a joint NCCP and HCP. For purposes of the NCCPA, the Plan and this Agreement have been prepared according to the Planning Agreement.

(g) OCTA has developed a series of measures, described in Chapter 5 of the Plan, to minimize and mitigate to the maximum extent practicable the effects of Take of Covered Species as a result of the Covered Activities, and to adequately provide for the conservation and management of the Covered Species and their habitat.

(h) OCTA is making substantial commitments of land, natural resources, financial resources, and human resources to provide for the conservation and management of the Covered Species, their habitats and other natural communities to obtain Take authorizations and regulatory assurances from the Wildlife Agencies.

2.2 Purposes

The purpose of this Agreement is to clarify the provisions of the Plan and the processes the Parties intend to follow to ensure successful implementation of the Plan in accordance with the State and Federal Permits and applicable law.

3.0 DEFINITIONS

Terms used in this Agreement and specifically defined in CESA, the NCCPA, the ESA, or in regulations adopted pursuant to those statutes shall have the same meaning when utilized in this Agreement, unless this Agreement expressly provides otherwise.

3.1 Agreement

“Agreement” means this Implementing Agreement, which incorporates the NCCP/HCP and the Permits by reference.

3.2 Annual Report

“Annual Report” means the Annual Report prepared by the Permittee, as provided in Section 9.1.

3.3 Authorized Take

“Authorized Take” means the extent of Take of Covered Species authorized by the Federal and State Permits.

3.4 CDFW

“CDFW” means the California Department of Fish and Wildlife, a department of the California Natural Resources Agency.

3.5 CEQA

“CEQA” means the California Environmental Quality Act (Pub. Resources Code §21000 *et seq.*) and all rules, regulations and guidelines promulgated pursuant to that Act.

3.6 CESA

“CESA” means the California Endangered Species Act (Fish & Game Code, §2050 *et seq.*) and all rules, regulations and guidelines promulgated pursuant to that Act.

3.7 Changed Circumstances

“Changed Circumstances” for purposes of the Federal Permit, means changes in circumstances affecting a species or the geographic area covered by the Plan that can reasonably be anticipated by Permittee and the Service, and that can be planned for in the Plan (50 C.F.R. § 17.3). Changed Circumstances and planned responses to those circumstances are described in Section 8.6.2 of the Plan. Under California law, “Changed Circumstances” are defined to mean reasonably foreseeable circumstances that could affect a Covered Species or the geographic area covered by the NCCP (California Fish and Game Code § 2805 (c)).

3.8 Conservation Easement

“Conservation Easement” means a conservation easement as that term is used in California Civil Code section 815 *et seq.* and is described by California Civil Code section 815.1 as any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive

owners of such land, the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.

3.8 Conservation Measure

“Conservation Measure” means each action detailed in Chapter 5 of the Plan that is a component of the Conservation Strategy.

3.9 Construction Lead

“Construction Lead” means the agency that will have primary responsibility for implementing construction activities.

3.10 Covered Activities

“Covered Activities” means the freeway capital improvement projects and the conservation activities described in Chapter 3 of the Plan that may result in Take of Covered Species authorized under the Permits.

3.11 Covered Species

“Covered Species” means those species listed in Exhibit B to this agreement, each of which the Plan addresses in a manner intended to meet all of the criteria for issuing a permit under the NCCPA and an incidental take permit under the ESA.

3.12 Effective Date

“Effective Date” means the date following execution of this Agreement by all Parties on which the State Permit and Federal Permit are issued.

3.13 Early Action Plan

“Early Action Plan” means a Plan that the OCTA Board of Directors approved on August 13, 2007 (five-year Measure M2 Early Action Plan) to advance the implementation of several key Measure M2 projects, including providing funding for the Plan, acquisition of Preserves, funding of restoration projects, and related activities.

3.14 ESA

“ESA” 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.

3.15 Federally Listed Species

“Federally Listed Species” means the Covered Species that are listed as threatened or endangered species under the ESA as of the Effective Date, and the Covered Species that are listed as threatened or endangered pursuant to the ESA during the term of the Plan as of the date of such listing.

3.16 Federal Permit

“Federal Permit” means the federal incidental Take Permit issued by the Service to Permittee pursuant to section 10(a)(1)(B) of the ESA.

3.17 Fully Protected Species

“Fully Protected Species” means any species identified in California Fish and Game Code sections 3511 (birds), 4700 (mammals), 5050 (amphibians and reptiles) or 5515 (fish). No Fully Protected Species are Covered Species under this Plan.

3.18 HCP

“HCP” means the habitat conservation plan prepared by Permittee for the Plan Area.

3.19 Listed Species

“Listed Species” means a species (including a subspecies, or a distinct population segment of a species) that is listed as an endangered or threatened species under the ESA or as an endangered, threatened or candidate species under CESA.

3.20 Migratory Bird Treaty Act

“Migratory Bird Treaty Act” means the federal Migratory Bird Treaty Act (16 U.S.C. §703 *et seq.*) and all rules, regulations and guidelines promulgated pursuant to that Act.

3.21 NCCP

“NCCP” means a natural community conservation plan prepared according to the California Natural Community Conservation Planning Act.

3.22 NCCPA

“NCCPA” means the California Natural Community Conservation Planning Act (Fish & Game Code, §2800 *et seq.*), as amended on January 1, 2012, and all rules, regulations and guidelines promulgated pursuant to that Act.

3.23 NCCP Permit or State Permit

"NCCP Permit" or "State Permit" means the Permit issued in accordance with this Agreement by CDFW under section 2835 of the California Fish and Game Code to permit the Take of Covered Species.

3.24 NEPA

“NEPA” means the National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*) and all rules, regulations and guidelines promulgated pursuant to that Act.

3.25 No Surprises Assurances

"No Surprises Assurances" with regard to the Federal Permit means the regulations at 17.3, 17.22(b)(5), and 17.32(b)(5) that govern the ability of the Service to require conservation and mitigation measures beyond those provided in the Plan in the event of an Unforeseen Circumstance where Permittee is properly implementing the terms of the Plan and Federal Permit. With regard to the NCCP Permit, No Surprises assurances means that if there are Unforeseen Circumstances CDFW will not require additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources for the life of the NCCP permit without the consent of Permittee, provided Permittee is implementing the Plan, the Permits, and this Agreement, unless CDFW determines that continued implementation of the Plan would jeopardize the continued existence of a Covered Species (California Fish and Game Code § 2820 (f)).

3.26 Non-listed Species

“Non-listed Species” means a species (including a subspecies, or a distinct population segment of a species) that is not listed as endangered or threatened under the ESA or CESA.

3.27 Participating Special Entity

“Participating Special Entity” means Caltrans.

3.28 Party or Parties

“Party” and “Parties” mean the signatories to this Agreement, individually and collectively.

3.29 Permit Area

“Permit Area” means the portion of the Plan Area within which the Permittee is seeking authorization from the Wildlife Agencies for the Take of Covered Species resulting from Covered Activities. The Permit Area includes those lands in the Plan Area that are defined by either of the following parameters: (1) the lands along existing freeways (I-5, I-405, SR-22, SR-55, SR-57, SR-91) on which M2 freeway capital improvement projects will be conducted (Exhibit A); or (2) the boundary of any land protected and managed under the Plan (i.e., Preserves).

3.30 Permits

“Permits” means the Federal HCP Permit and the NCCP Permit.

3.31 Permittee

“Permittee” means OCTA.

3.32 Plan Area

“Plan Area” means the area covered by the NCCP/HCP. The Plan Area is described in Chapter 1 of the NCCP/HCP and depicted in Exhibit A of this Agreement.

3.33 Planning Agreement

“Planning Agreement” means the Planning Agreement regarding the OCTA NCCP/HCP executed in 2009 and amended in 2014 by OCTA, Caltrans, the Service, and CDFW.

3.34 Renewed Measure M or M2

“Renewed Measure M” or “M2” means the Orange County Renewed Measure M Transportation Ordinance and Investment Plan, approved by Orange County voters in November 2006. The Renewed Measure M is an extension of a ½-cent transportation sales tax, beginning in 2011 through 2041, for transportation improvements throughout Orange County.

3.35 Preserve or Preserve Area

“Preserve” or “Preserve Area” means the land dedicated in perpetuity through fee title, conservation easement or equivalent legal protection mechanism to meet the preservation, conservation, enhancement and restoration objectives of the Conservation Strategy of the Plan.

3.36 Rough Proportionality

“Rough Proportionality” means implementation of mitigation and Conservation Measures under the Plan that is roughly proportional in time and extent to the impact on habitat or Covered Species authorized under the Plan and Permits.

3.37 Specially Protected Mammal Species

“Specially Protected Mammal Species” means any species identified in California Fish and Game Code section 4800. One Specially Protected Mammal Species, the mountain lion, is a Covered Species under the Federal HCP Permit.

3.38 Take and Taking

“Take” and “Taking” have the same meaning provided by the ESA and its implementing regulations with regard to activities subject to the ESA, and also have the same meaning provided in section 86 of the California Fish and Game Code with regard to activities subject to CESA and NCCPA. “Take” under the ESA does not apply to plant species, and take of plant species is not prohibited under the ESA; however, the plant species identified in Exhibit B are listed on the Federal Permit as Covered Species in recognition

of the conservation measures provided for them under the Plan and receive “No Surprises” regulatory assurances under the Federal Permit. For the purposes of this Agreement, Take includes impacts to covered plant species. For purposes of State law, take shall have the same meaning provided in Section 86 of the California Fish and Game Code.

3.39 Unforeseen Circumstances

“Unforeseen Circumstances” as defined at 50 C.F.R. § 17.3 means, with regard to the Federal Permit, changes in circumstances affecting a species or geographic area covered by the Plan that could not reasonably have been anticipated by Permittee and the Service at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of the Covered Species. Under the State Permit “Unforeseen Circumstances” as defined at Fish and Game Code section 2805, subdivision (k), means changes affecting one or more species, habitat, natural community, or the geographic area covered by a conservation 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.

3.40 Unlisted Species

“Unlisted 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 CESA or the ESA.

4.0 CONSERVATION STRATEGY

Chapter 5 of the Plan presents the Conservation Strategy. The Conservation Strategy identifies the take mitigation and minimization requirements for the Covered Activities intended to ensure that these activities are in compliance with the ESA, NCCPA, and CEQA, and other applicable environmental regulations. The Conservation Strategy includes specific and measurable biological goals and objectives that will be met through the acquisition of a Preserve Area that provides for the protection of habitat, natural communities, and species diversity on a landscape level. The Conservation Strategy also includes project-specific conservation measures to avoid, minimize, and mitigate impacts of the Covered Activities on Covered Species and their habitats. The creation and protection of the Preserve Area together with these conservation measures are intended to provide for the conservation of the Covered Species by (1) helping to maintain the ecological integrity of large habitat blocks, ecosystem functions, and biological diversity in the Plan Area; (2) providing linkages between natural communities, including Covered Species habitat, in the Plan Area; (3) providing large habitat blocks that support sustainable populations of Covered Species; (4) incorporating lands that represent a range

of environmental gradients and habitat diversity to provide for shifting species, including Covered Species, distributions due to Changed Circumstances; and (5) providing lands that support the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the Covered Species habitat areas within the Plan Area. Lastly, the Conservation Strategy provides for the establishment of a monitoring and adaptive management program to ensure that management of the Preserve Area can evolve as new data and information become available. The Plan outlines the requirements of the Permittee for implementation of the Conservation Strategy.

4.1 Avoidance and Minimization of Impacts

The conservation strategy 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. Avoidance and minimization measures include species surveys and specific conditions on Covered Activities, as detailed in Chapter 5 of the Plan. Permittee shall implement, or ensure the implementation of, all applicable avoidance and minimization measures as required by the Plan.

4.2 Land Acquisition and Assembly of Preserve Areas

Permittee may acquire lands for the Preserve Area by fee title or by Conservation Easement. All fee title acquisitions will be held in fee by a Wildlife Agency or be protected by a Conservation Easement in favor of an entity approved in writing by the Wildlife Agencies that ensures that the acquired lands are protected in perpetuity as open space for Covered Species and their habitats. If Permittee acquires Preserve land by Conservation Easement, the terms of the Conservation Easements must be approved in writing by the Wildlife Agencies and identify the Wildlife Agencies as third party beneficiaries with a right of access to the easement areas and the right to enforce the terms of the Conservation Easement. All Conservation Easements shall be recorded in perpetuity pursuant to Civil Code section 815 *et seq.* and shall be subject to the Preserve Area commitments of the Plan.

Although not required by the Plan, this Agreement, or the Permits, OCTA may elect to acquire additional lands for the Preserve Area in the future. If OCTA elects to add additional lands to the Preserve, the identification, selection, and acquisition of the future Preserve(s) will be completed following the Environmental Oversight Committee (EOC) Preserve selection process. The Wildlife Agencies will have the opportunity to review and approve the selection of future Preserves. Any future Preserves and Conservation Easements put in place and recorded on such lands must have the approval of the Wildlife Agencies.

4.3 Land Acquired Through Partnerships with Other Agencies and Organizations

Permittee may enter into agreements and other partnerships involving land acquisitions within the Plan Area with other land management agencies and organizations where those acquisitions meet the goals and objectives of the Plan. However, such acquisitions will be formally credited towards the obligations set forth in the Plan only where the Wildlife Agencies approve the acquisition and concur that the acquisition (a) contributes to meeting the goals and objectives of the Plan, (b) contains a Conservation Easement that meets the requirements of Section 4.2 (unless owned in fee by the Wildlife Agencies), and (c) will be managed in perpetuity pursuant to a Resource Management Plan (RMP).

4.4 Credit for Lands Acquired and Restoration Projects Funded Before Issuance of the Permits

The Plan's Preserve Area includes lands acquired before issuance of the Permits that shall be credited towards the land commitments and obligations of the Plan once Permittee records a Conservation Easement. The lands shall be formally credited towards the Plan as follows:

Preserve Area		
Preserve	Total Acres ¹	Acres of Natural Habitat
Aliso	151.1	146.9
Ferber Ranch	395.7	380.4
Hafen	48.0	47.9
Hayashi	298.8	293.6
MacPherson	203.5	200.0
O'Neill Oaks	116.1	112.4
Saddle Creek South ²	82.8	51.3
Total	1,296.0	1,232.5

¹ These acreages are approximate based on the best currently available survey data. Final acreages are not expected to vary significantly, but may be adjusted slightly in the future when more accurate data is available.

² Saddle Creek South Preserve was purchased, in part, with funding provided by the National Fish and Wildlife Foundation. OCTA receives a percentage of the available credits based on the percentage of the total cost of acquiring and managing the Preserve contributed by OCTA (75.36%).

The Plan provides for credits for restoration projects funded during preparation of the Plan on lands permanently protected through conservation easements, restrictive covenants, deed restrictions, or equivalent title restrictions approved by the Wildlife

Agencies. The Wildlife Agencies, in their sole discretion, may approve habitat restoration projects on United States Forest Service lands focused on improving conditions for arroyo chub to support sustainable populations in occupied areas, provided that the United States Forest Service provides adequate assurances of durability and addresses other relevant Wildlife Agency concerns. Credits under the Plan for the following restoration projects shall be available to Permittee once the Wildlife Agencies have concurred that the project has met the performance criteria established in the Wildlife Agency approved restoration plan, as follows:

- **Agua Chinon/Bee Flat – Irvine Ranch Conservancy.** 90.1 acres of restoration consisting of chaparral, grassland, coastal sage scrub, elderberry scrub, oak woodland, and riparian (mulefat scrub/elderberry shrubland).
- **Big Bend – Laguna Canyon Foundation.** 3.7 acres of restoration consisting of coastal sage scrub and riparian woodland to enhance wildlife connectivity.
- **City Parcel – City of San Juan Capistrano.** 53 acres of restoration consisting of riparian and coastal sage scrub within Trabuco Creek Wildlife Linkage.
- **Fairview Park – City of Costa Mesa.** 23 acres of restoration consisting of wetlands, grasslands, coastal sage scrub, and riparian.
- **UC Irvine Ecological Preserve – Nature Reserve of Orange County.** 8.5 acres of restoration consisting of cactus scrub.
- **Aliso Creek – Laguna Canyon Foundation.** 55 acres of restoration consisting of riparian and transitional habitat.
- **Chino Hills State Park – California Department of Parks and Recreation.** 13.5 acres of riparian restoration and 6.0 acres of cactus scrub restoration.
- **Harriett Weider Regional Park – Bolsa Chica Conservancy.** 8.2 acres of restoration consisting of grassland, coastal sage scrub, and riparian habitat.
- **Lower Silverado Canyon – Irvine Ranch Conservancy.** 28.4 acres of restoration consisting of riparian and coastal sage scrub habitat.
- **North Coal Canyon – California Department of Parks and Recreation.** 5.5 acres of restoration consisting of coastal sage scrub habitat within a key wildlife connectivity linkage area.
- **West Loma – Irvine Ranch Conservancy.** 62.47 acres of restoration consisting of coastal sage scrub and riparian habitat.

Conservation actions involving restoration projects include an estimate of conserved habitats based on conceptual restoration design plans. The final acreage of restored habitat may be refined during final restoration design and during implementation. Satisfaction of mitigation obligations will be achieved once the Wildlife Agencies concur in writing that the restoration project meets the restoration design success criteria.

Permittee has committed to funding additional restoration projects following the EOC restoration project selection process. The Plan identifies requirements for future restoration to ensure that the Plan provides conservation for all Covered Species.

5.0 PRESERVE AREA MANAGEMENT

Permittee shall remain solely responsible for ensuring the management of the Preserve in perpetuity in accordance with Wildlife Agency-approved RMPs, as those plans may be revised over time, and for the timeliness and quality of all requirements of preserve management. Management activities on all Preserve Area lands that are identified as obligations of the Plan are considered Covered Activities. Permittee may contract with another entity for management planning and plan preparation, and subsequently contract with a designated land manager to perform the various implementation tasks. The Preserve manager(s), which must be approved by the Wildlife Agencies, may be a land use agency(ies), non-profit organization(s), for-profit land management company(ies), or other qualified entity(ies). The Preserve manager will carry out the preserve management responsibilities described in Chapter 7 of the Plan.

5.1 Resource Management Plans

Within two (2) years of the dedication of any parcel of land to the Preserve Area, as evidenced by recordation of a Conservation Easement or fee title held by a Wildlife Agency, Permittee shall ensure that an RMP for each parcel is finalized pursuant to Section 7.2 of the Plan after receiving written concurrence from the Wildlife Agencies. During the preparation of RMPs, Permittee shall be responsible for ensuring the land is managed in accordance with the Plan to maintain and improve Covered Species habitat using the best available information and management methods in practice within the Plan Area until the RMP is completed. The RMPs will be reviewed every 5 years and updated as necessary.

5.2 Recreation Uses

The Parties acknowledge that providing low-intensity recreational opportunities on Preserve Area lands may be acceptable, subject to appropriate constraints to protect Covered Species and natural communities. Permittee may integrate recreation planning goals and objectives (Section 7.2.5, “Preserve Management Guidelines”, of the Plan) into the RMPs to the extent consistent with the Plan’s biological goals and objectives and the requirements of this Agreement and the Permits, and subject to the prior written concurrence of the Wildlife Agencies. Permittee recognizes that recreation opportunities, and thus any recreation planning goals and objectives, are secondary to the need to protect biological resources committed for conservation under the Plan. Permittee shall manage all recreational uses allowed under the RMPs to ensure such uses are consistent with the RMP. In the event that recreationists fail to follow rules for access/conduct/site use resulting in habitat damage and/or disturbance to wildlife beyond that contemplated in the Plan, Permittee may need to curtail uses or eliminate public access on a temporary or permanent basis as necessary to achieve compliance with the RMPs.

6.0 COVERED ACTIVITIES

This section describes the Covered Activities within the Permit Area for which the Plan will provide compensation, avoidance, and minimization of impacts for Covered Species. These are the Covered Activities for which take authorization will be obtained. As stated in Section 5.6 of the Plan, avoidance and minimization measures are requirements that will be evaluated and implemented on a project-by-project basis for each Covered Activity. These include measures to avoid sensitive biological resources and species specific minimization measures. The Plan includes coverage for two major categories of Covered Activities:

- Freeway capital improvement projects proposed by OCTA along 13 highway segments as described in Section 6.1 and additional future minor freeway capital improvement projects funded by M2 and described in Section 6.2.
- Preserve Management, Restoration, and Monitoring Activities as described in Section 6.3.

6.1 Freeway Capital Improvement Projects

Freeway capital improvement projects covered by the NCCP/HCP include the thirteen freeway capital improvement projects proposed by Permittee through its M2 transportation planning and project implementation process. These proposed projects are designed to reduce congestion, increase capacity, and improve traffic flow of Orange County's important transportation infrastructure. The freeway improvement projects are, in all instances, along existing freeways and will include lane additions, interchange improvements, and associated facility upgrades. Freeway capital improvement projects do not include the construction of new freeways.

There are 13 discrete proposed freeway segments in which freeway capital improvement projects have been identified for coverage under the Plan, which are described in greater detail below.

1) Project A: Santa Ana Freeway (Interstate 5) Improvements between Costa Mesa Freeway (State Route 55) and "Orange Crush" Area (State Route 57)

The objective of Project A is to increase freeway capacity and reduce congestion on the Santa Ana Freeway (I-5). Project A would affect two segments: Segment 1, extending from SR-55 to SR-57, and Segment 2, located at the I-5/SR-55 interchange. These Improvements would add capacity on I-5 between SR-55 and SR-57 and relieve congestion at the I-5/SR-57 interchange, an area known as the "Orange Crush." Construction would take place within the existing right-of-way. Interchange

improvements would occur between the Fourth Street and Newport Boulevard ramps on I-5, between Fourth Street and Edinger Avenue on SR 55 as it crosses SR-55 and SR-57. Project-specific improvements are subject to approved plans developed in coordination with local jurisdictions and affected communities.

2) Project B: I-5 Improvements from SR-55 to El Toro “Y” Area

The objective of Project B is to increase freeway capacity and reduce congestion on I-5 between SR-55 and I-405, an area known as the El Toro “Y.” These improvements would consist of construction of new lanes and improvements to existing interchanges. Project B construction would take place within the existing right-of-way. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

3) Project C: North and South Portions of I-5 Improvements between El Toro Interchange and Avenida Pico

The objective of Project C is to increase freeway capacity and reduce freeway congestion on I-5 south of the El Toro “Y”. It is also intended to improve and update key interchanges on I-5 to relieve street congestion around older interchanges and on ramps.

The north portion of Project C (Segment 1) would improve I-5 south of the El Toro “Y” by constructing new lanes from the vicinity of the El Toro interchange in Lake Forest to the vicinity of SR-73 in Mission Viejo. The south portion of Project C (Segment 2) involves improvements similar to those proposed for the north portion between Pacific Coast Highway and Avenida Pico to reduce freeway congestion in San Clemente.

Project C also involves major improvements to local interchanges. Project C, Segment 2 includes the I-5/Avenida Pico interchange. Project C, Segment 1 includes the I-5/Avery Parkway interchange and the I-5/La Paz Road interchange. Project C construction takes place within the existing right-of-way. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

4) Project D: I-5 Local Interchange Upgrades

Project D updates and improves the following key interchanges on I-5:

- I-5/Avenida Pico Interchange—integrated into Project C, Segment 2
- I-5/Ortega Highway Interchange

- I-5/Avery Parkway Interchange—integrated into Project C, Segment 1
- I-5/La Paz Road Interchange—integrated into Project C, Segment 1
- I-5/El Toro Interchange

These interchanges occur in southern Orange County, in the vicinity of Mission Viejo, Laguna Niguel, San Juan Capistrano and San Clemente. Improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

5) Project E: Garden Grove Freeway (SR-22) Access Improvements

Project E improves interchanges along SR-22 at Euclid Street, Brookhurst Street, and Harbor Boulevard in order to reduce freeway and surface street congestion near these interchanges. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

6) Project F: SR-55 Improvements

The objective of Project F is to increase freeway capacity and reduce congestion through the addition of new lanes to SR-55 between the Garden Grove Freeway (SR-22) and the San Diego Freeway (I-405). The south portion of Project F (Segment 1) is between I-405 and I-5. The north portion of Project F (Segment 2) is between I-5 and SR-22. These improvements include merging lanes between interchanges to smooth traffic flow. Project F would also provide freeway operational improvements for the portion of SR-55 between SR-91 and SR-22.

7) Project G: SR-57 between Orangewood Avenue and Lambert Road Northbound—General-Purpose Lane Improvements

The objective of Project G is to increase freeway capacity and reduce congestion associated with SR-57. This project is composed of several segments.

- Segment 1a: Construction of a northbound lane between Orangewood Avenue and Katella Street.
- Segment 1b: Construction of a northbound lane between Katella Street and Lincoln Avenue.
- Segment 2a: Construction of a northbound lane between Orangethorpe Avenue and Yorba Linda Boulevard.

- Segment 2b: Construction of a northbound lane between Yorba Linda Boulevard and Lambert Road.
- Segment 3: Improvements to the Lambert Interchange
- Segment 4: Construction of a northbound truck climbing lane between Lambert Road and Tonner Canyon Road.

The improvements are designed and coordinated specifically to reduce congestion at the SR-57/SR-91 interchange. All improvements associated with Project G generally would occur within the existing right-of way. Specific improvements are subject to approved plans developed in coordination with local jurisdictions and affected communities.

8) Project H: Project H: Riverside Freeway (SR-91) from SR-57 to I-5 Westbound—General-Purpose Lane Improvements

Project H adds capacity in the westbound direction on State Route 91 to smooth traffic flow and relieve congestion in the SR-57/SR-91 interchange. It also provides operational improvements at on- and off-ramps to SR-91 between I-5 and SR-57. These improvements generally occur within the existing right-of-way. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

9) Project I: SR-91 Improvements from SR-57 to SR-55 Interchange

Project I would add freeway capacity to SR-91 between SR-57 and SR-55. Project I (Segment 1) includes improvements to the SR-91/SR-55 and SR-91/SR-57 interchange complexes and nearby local interchanges at Tustin Avenue and Lakeview Avenue.

Project construction generally would occur within the existing right-of-way. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

10) Project J: SR-91 Improvements from SR-55 to the Orange County/Riverside County Line

Project J would improve SR-91 from SR-55 to the Orange County/Riverside County boundary. The project would provide up to four new lanes of capacity between SR-241 and the Riverside County line by adding reversible lanes, building elevated sections, and improving connections to SR-241. These projects would be constructed in conjunction with similar coordinated improvements in Riverside County extending to I-15.

Improvements in Riverside County are paid for from other sources. Specific improvements are subject to approved plans and are developed in cooperation with local jurisdictions and affected communities.

11) Project K: San Diego Freeway (I-405) Widening Project from SR-55 to San Gabriel River Freeway (I-605)

Project K would increase freeway capacity and reduce congestion associated with I-405. The proposed project would add new lanes to the San Diego Freeway between I-605 and SR-55, generally within the existing right-of-way. The project would update interchanges and widen all local overcrossings according to city and regional master plans.

The proposed improvements are coordinated with other planned I-405 improvements, including improvements to the I-405/SR-22/I-605 interchange area to the north and I-405/SR-73 improvements to the south. The improvements adhere to the recommendation of the I-405 major investment study, adopted by the OCTA in October 2005, and are developed in coordination with local jurisdictions and affected communities.

12) Project L: Project L: I-405 Improvements between SR-55 and I-5

Project L would increase freeway capacity and reduce congestion associated with I-405. The proposed project would add new lanes to I-405 from SR-55 to I-5. The project would ease chokepoints at interchanges and add merging lanes near on- and off-ramps such Irvine Center Drive and SR-133, and to improve overall freeway operations in the I-405/I-5 El Toro “Y” area. Project L, Segment 2 includes improvements at the Lake Forest Interchange on the I-5.

Project L is constructed generally within the existing right-of-way. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities.

13) Project M: I-605 Freeway Access Improvements

Project M would improve freeway access and arterial connection to I-605 serving the communities of Los Alamitos and Cypress. The project is coordinated with other planned improvements along SR-22 and I-405. Specific improvements are subject to approved plans developed in cooperation with local jurisdictions and affected communities. This improvement connects to interchange improvements at I-405 and SR-22 as well as new freeway lanes between I-405 and I-605. This project is integrated with Project K.

6.2 Future Minor Freeway Capital Improvement Projects

In addition to the thirteen freeway capital improvement projects outlined above, additional future minor freeway capital improvement projects are eligible for coverage under the Plan as Covered Activities provided that the projects meet the guidelines for Covered Activities as described in Chapter 3 of the Plan, meet all HCP and NCCP Permit requirements, including those outlined in Chapter 3 of the Plan, occur within the Permit Area, and do not result in exceedance of the acreage impact caps established for the Plan, additional take of Covered Species, or greater or significantly different impacts to the environment than analyzed in the NEPA/CEQA document for the NCCP/HCP, as determined by the Wildlife Agencies.

6.3 Preserve Management, Restoration, and Monitoring Activities

Preserve Management, Restoration and Monitoring Activities are the long-term habitat management activities associated with Preserves, described in Chapter 3 of the Plan, that may result in Take of Covered Species during the term of the Plan and for which Take coverage is provided under the Take authorizations. These Covered Activities include the following categories:

- Management and recreational facilities;
- Management activities;
- Habitat enhancement, restoration, and creation, including the collection of seed if performed, or directly overseen, by an experienced restoration specialist;
- Species surveys, monitoring, and research; and
- Responses to Changed Circumstances.

Public access and passive recreation that is consistent with the Plan and RMPs will be a compatible use that does not require coverage under the Permit because it is not anticipated to result in Take of Covered Species.

7.0 TAKE AUTHORIZATIONS FOR PERMITTEE

Following execution of this Agreement by all Parties and a determination that all applicable legal requirements have been met, the Service will issue a Federal Permit under Section 10(a)(1)(B) of the ESA to Permittee that authorizes the incidental Take of Covered Species resulting from Covered Activities, and CDFW will issue an NCCP Permit under Section 2835 of the California Fish and Game Code to Permittee that authorizes the Take of Covered Species resulting from Covered Activities. This

Agreement will take effect with regard to the Federal Permit and NCCP Permit, respectively, upon issuance of each Permit.

Authorized Take under the Permits will cover the Permittee, the Participating Special Entity to the extent provided under Section 7.1, and entities and persons who are under the direct control of Permittee for purposes of implementing the Covered Activities under the Permits, including all of its respective officers, directors, employees, agents, subsidiaries, member agencies, and contractors, as applicable, who engage in any Covered Activity and implementation of the Plan.

7.1 Extension of Take Authorizations to the Participating Special Entity

For any Covered Activity for which the Participating Special Entity assumes the role of Construction Lead, the Participating Special Entity shall sign a Certificate of Inclusion under the Federal Permit and a Certificate of Inclusion under the State Permit for that Covered Activity in substantially the same form as Exhibits C and D, respectively. Revisions to the template Certificates of Inclusion must be approved in writing by the Wildlife Agencies. The Permittee shall then issue to the Participating Special Entity the Certificates of Inclusion, which specifically describe the Authorized Take under the Federal and State Permits, respectively, and required avoidance and minimization measures and extend Take authorization under the Permits to the Participating Special Entity. Permittee represents that it has legal control over the Participating Special Entity for the purposes of implementing the terms and conditions of this Agreement, the Plan and the Permits and acknowledges that it is responsible for ensuring compliance by the Participating Special Entity with all applicable terms and conditions of this Agreement, the Plan and the Permits and is liable for any non-compliance by the Participating Special Entity with such terms and conditions. Upon Permittee's issuance of the Certificates of Inclusion to the Participating Special Entity, the Participating Special Entity may Take the Covered Species while carrying out the Covered Activity in the Permit Area in accordance with the terms and conditions of this Agreement, the Plan and the Permits. The Take authorization issued to the Participating Special Entity applies to all of its elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors. The Participating Special Entity shall comply fully with the applicable terms and conditions of the Agreement, the Plan and the Permits and shall ensure that its elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors comply with the applicable terms and conditions of the Agreement, Plan, and Permits. The Participating Special Entity shall be liable for any non-compliance with such terms and conditions, including non-compliance by its elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors. Nothing in this Agreement or the Certificates of Inclusion shall limit CDFW's ability under the NCCPA to enforce the terms and conditions of this Agreement, the Plan and the NCCP Permit against the Permittee or the Participating Special Entity.

7.2 Take Authorizations for Non-Listed Covered Species

7.2.1 ESA Section 10

The Federal Permit will identify all Covered Species. The Federal Permit will take effect for listed Covered Species at the time the Federal Permit is issued and, subject to compliance with the terms of the Federal Permit, will take effect for an unlisted Covered Species upon the listing of such species. Any reference in this Agreement or the Plan to incidental take of Covered Species shall, for the purpose of Covered plant Species refer to loss or impacts to Covered plant Species identified in the Permit.

7.2.2 NCCPA

Under the NCCPA, take of unlisted species may be authorized under a Section 2835 permit. The State Permit authorizes the take of all Covered Species as of the Effective Date, regardless of whether they have been listed under State law.

7.3 Take Authorizations for Migratory Bird Species

The Federal Permit to be issued in reliance on the Plan and this Agreement also constitutes a Special Purpose Permit under 50 Code of Federal Regulations section 21.27 for the take of Covered Species listed under the Migratory Bird Treaty Act (16 U.S.C. § 703 *et seq.* (MBTA)) that are also listed under the ESA as threatened or endangered. The take of any of these birds as the result of a Covered Activity carried out in accordance with the Plan and the Federal Permit will not constitute a violation of the MBTA. The Special Purpose Permit will be valid for three years and will be renewed pursuant to the MBTA provided Permittee is in compliance with the Federal Permit. Each renewal of the Special Purpose Permit shall be for the maximum period of time allowed under 50 C.F.R. § 21.27 or its successor at the time of renewal, provided the Federal Permit remains in effect for such period. The Federal Permit shall also constitute a Special Purpose Permit for each of the unlisted MBTA Covered Species that may become listed under the ESA during the term of the Permit, concurrent with the listing of the species.

7.4 No Take Above Levels Authorized

The amount of Take for each Covered Species, including Take resulting from habitat modification authorized under the Permits, is defined in Chapter 6 of the Plan and in the Permits. Modifications to the Plan through adaptive management or other provisions of the Plan that would result in an increase in the take of Covered Species beyond that analyzed under the original Plan and provided in the Permits are not authorized. Any

such modification must be reviewed and approved as an NCCP/HCP and permit amendment. See Section 15.2 of this Agreement and Section 8.5 of the Plan.

Section 2820(b)(3) of the California Fish and Game Code requires that the Agreement include a provision specifying the actions CDFW shall take if the level of take exceeds that authorized by the Permit. For purposes of the NCCP Permit, if CDFW determines, after conferring with Permittee, that take is occurring above levels authorized by the NCCP Permit, CDFW, at its discretion, may suspend or revoke the State Permit, in whole or in part, pursuant to the procedures in Section 16.2 of this Agreement. CDFW will work with Permittee to obviate the need for Permit revocation or suspension as stated in Section 8.7.2.6 of the Plan.

7.5 No Take Authorization for Fully Protected Species

No Fully Protected Species (as defined under section 3.17) are included in the list of Covered Species, although six Fully Protected Species are expected to occur in the Plan Area. Take of these species is not proposed by Permittee nor authorized under the NCCP Permit, and CDFW acknowledges and agrees that the measures set forth in the Plan for the Covered Activities are intended to avoid causing the Take of any Fully Protected Species.

7.6 No Take Authorization for Specially Protected Mammal Species

One Specially Protected Mammal Species, mountain lion, is included in the list of Covered Species for the Federal HCP Permit. Take of this species is not proposed by Permittee, nor authorized under the NCCP Permit, and CDFW acknowledges and agrees that the measures set forth in the NCCP/HCP for the Covered Activities are intended to avoid causing the Take of this Specially Protected Mammal Species under State law.

8.0 OBLIGATIONS OF THE PARTIES

8.1 Obligations of Permittee

Permittee will fully and faithfully perform all obligations assigned to it under the Plan, this Agreement and the Permits, including overseeing and managing implementation of the Plan and compliance with all take avoidance, minimization, and mitigation measures, all responses to Changed Circumstances, all monitoring and reporting requirements, and funding of the Plan. Permittee shall undertake all necessary actions to enforce the terms of the Plan, this Agreement and the Permits as to itself and all entities and persons under its direct control to which it extends Take authorization, including, upon issuance of a Certificate of Inclusion, the Participating Special Entity. Any non-compliance by

Permittee or an entity or person under its direct control for purposes of the Permits, including the Participating Special Entity, may be deemed by the Service or CDFW as a violation by Permittee of the Federal Permit or State Permit, respectively. In particular, covered freeway capital improvement projects will be implemented by Permittee, in coordination with the Participating Special Entity and contractors, in conformance with the Plan, this Agreement, and the Permits. Preserve Management Covered Activities will be implemented by Permittee and its management entities in conformance with the Plan, this Agreement, and the Permits.

8.1.1 Role of Permittee

Permittee's responsibilities for implementing the Plan include, but are not limited to:

- Overseeing the assembly and management of the Preserve Area as further described in the Plan and summarized in Sections 4 and 5 of this Agreement;
- Funding and overseeing Plan implementation, including all Take minimization, mitigation and other conservation measures applicable to Covered Activities both within and outside of the Preserve Area;
- Ensuring compliance by the Participating Special Entity with the Plan, the Agreement, and the Permits;
- Ensuring mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact of Authorized Take, as provided in Section 16.2.2 of this Agreement;
- Providing technical support and advice to Preserve Managers about what Plan measures apply to Covered Activities and how they should be applied, including, but not limited to, avoidance and minimization measures;
- Promoting coordination among Preserve Managers to ensure that the Plan is implemented consistently and effectively;
- Preparing or ensuring the preparation of RMPs, as further described in Section 5.1 of this Agreement and Section 7.2 of the Plan;
- Monitoring, adaptive management and Changed Circumstances;
- Information management; and
- Preparing the Annual Report.

8.1.2 Coordination between Permittee and other Regional Conservation Plans

The Plan Area adjoins or overlaps with two other regional habitat conservation plans, the County of Orange Central and Coastal Subregion NCCP/HCP, and the Southern Orange County HCP. The Conservation Strategy for the Plan is designed to enhance the overall level of conservation in Orange County by building on existing conserved lands and

providing increased connectivity between existing conserved lands and thus is consistent with overlapping and adjoining plans.

8.2 Obligations of the Participating Special Entity

It is expected that the Participating Special Entity will assume the role of Construction Lead on behalf of the Permittee for a number of freeway capital improvement projects that are Covered Activities. The Participating Special Entity will not assume any obligations for Covered Activities in Preserve Areas. For all Covered Activities for which the Participating Special Entity assumes the role of Construction Lead, the Participating Special Entity will execute Certificates of Inclusion under the Federal and State Permits. The Participating Special Entity will fully and faithfully perform all obligations assigned to it under the Plan, this Agreement, the Certificates of Inclusion, and the Permits, specifically including the implementation of all applicable avoidance and minimization measures.

8.2.1 Role of Participating Special Entity

The responsibilities of the Participating Special Entity for implementing the Plan when it acts as Construction Lead include:

- Ensuring all applicable avoidance and minimization measures are implemented, including; (1) the aquatic resources and species policy; ; (2) covered plant species policy; (3) wildlife crossing policy; (4) nesting birds policy; (5) wildfire protection techniques; (6) stormwater and water quality BMPs; (7) streambed and wetland and riparian habitat avoidance and minimization measures and (8) standard avoidance and minimization measures BMPs;
- Ensuring funding for implementation of applicable avoidance and minimization measures;
- Reporting to the Permittee regarding implementation of the Covered Activity, including avoidance and minimization measures.

The Participating Special Entity has no obligations regarding implementation of the following Plan components:

- Mitigation measures, including measures related to assembly and management of the Preserve Area;
- Preparing RMPs
- Monitoring, Adaptive Management, and Changed Circumstances;
- Preparing the Annual Report.

8.2.2 Remedies and Enforcement by Permittee Against the Participating Special Entity

If the Participating Special Entity fails to comply with applicable terms of this Agreement, the Plan, the Certificates of Inclusion, or the Permits, the Permittee may withdraw the Certificates of Inclusion and terminate any Take Authorization extended to the Participating Special Entity. Nothing in this Agreement shall limit the remedies otherwise available to OCTA in equity and in law to enforce compliance.

8.3 Obligations of the Service

8.3.1 Permit Issuance, Implementation and Monitoring

Following execution of this Agreement by each Party and satisfaction of all other applicable legal requirements, the Service will issue Permittee a Federal Permit authorizing incidental Take by Permittee of each listed animal Covered Species resulting from Covered Activities within the Plan Area. The Permit will be conditioned on compliance with all terms and conditions of the Permit, including the Plan, this Agreement and applicable law. The Service shall cooperate and provide to the extent appropriated funds are available for that purpose, technical assistance to Permittee in implementing the Federal Permit. The Service will use its reasonable efforts to expeditiously review all conservation easements or equivalent legal mechanisms proposed to conserve lands dedicated to the Preserve Area and all RMPs submitted to it for review and approval under the Plan. The Service shall also monitor Permittee's implementation of the Plan, this Agreement and the Federal Permit to ensure compliance.

8.3.2 Consultation with Public Agencies

To the maximum extent allowable, in any consultation on any Covered Activity involving Permittee under Section 7 of the ESA, the Service shall ensure that the biological opinion issued in connection with the proposed action is consistent with the biological opinion issued for issuance of the Section 10 Permit for the Plan, provided that the Covered Activity as proposed in the consultation is consistent, and will be implemented in accordance with the Plan, this Agreement and the Federal Permit. Any reasonable and prudent measures and terms and conditions in the biological opinion on the proposed action shall, to the maximum extent appropriate and allowable under Section 7 and its implementing regulations, be consistent with and not be in excess of those measures required of the Permittee under the Plan, this Agreement and the Federal Permit.

8.3.3 Future Environmental Review Under NEPA

In the event that the Service participates as a lead or cooperating agency under NEPA with respect to the implementation of a Covered Activity, the Service, to the maximum extent consistent with the requirements of NEPA and other applicable federal law, will utilize the NEPA document prepared for the Plan and Federal Permit.

8.4 Obligations of CDFW

8.4.1 CEQA

8.4.1.1 Agencies Responsible for CEQA Analysis

Permittee served as lead CEQA agency and CDFW has served as a responsible agency under CEQA regarding the development of the joint EIR/EIS for the Plan. Prior to or concurrent with the Effective Date, Permittee and CDFW each evaluated the Plan pursuant to CEQA and issued findings addressing whether the implementation of the Plan would cause significant adverse impacts to the environment.

8.4.1.2 Future Environmental Review Under CEQA

Unless otherwise required by CEQA or other applicable law, the Permittee and CDFW shall rely on and use relevant portions of the EIS/EIR and the CEQA findings when conducting future environmental review of Covered Activities. In the event that CDFW participates as a lead, responsible, or trustee agency under CEQA with respect to the implementation of a Covered Activity, CDFW will not require, recommend, or request the imposition of any additional or more stringent minimization or mitigation measures directed at the protection or conservation of Covered Species or their habitats. As a responsible or trustee agency under CEQA, CDFW will further notify the lead CEQA agency that any avoidance, minimization, and mitigation measures otherwise required for any impact to or Take of any Covered Species or habitat resulting from Covered Activities will be satisfied through the implementation of the Plan.

8.4.1.3 Lake and Streambed Alteration Agreements for Covered Activities

CDFW acknowledges and agrees that the Plan, this Agreement, and the NCCP Permit shall be deemed to provide an equivalent level of protection for wildlife, habitat, or other biological resources as the measures that would otherwise be required or recommended to address the impacts of Covered Activities on Covered Species pursuant to Fish & Game Code §§ 1600–1616.

In any future notification provided to CDFW under Section 1602 related to a Covered Activity, CDFW will ensure that any Streambed Alteration Agreement issued in response to the notification is consistent with the Plan (including the Streambed Program in Appendix E), this Agreement, and the NCCP Permit. Unless otherwise required by law or regulation, CDFW will not require through the Streambed Alteration Agreement additional land, water or other natural resources, or financial compensation or additional restrictions on the use of land, water, or other natural resources to address impacts of Covered Activities on Covered Species beyond the measures provided for under the Plan, this Agreement, and the NCCP Permit.

9.0 MONITORING AND ADAPTIVE MANAGEMENT

9.1 Preserve Management and Monitoring

Permittee will implement the Preserve Management and Monitoring Program as described in Section 7.2 of the Plan. The Permittee will conduct three main types of monitoring: compliance monitoring, effectiveness monitoring, and targeted studies. The Permittee will provide the results of all monitoring in its Annual Report. Compliance monitoring, also known as implementation monitoring, will track the status of Plan implementation and verify that the Permittee is meeting the terms and conditions of the Permits. Effectiveness monitoring assesses the biological success of the Plan. Specifically, it evaluates the implementation and success of the conservation strategy described in Chapter 5 of the Plan. Targeted studies will identify the best methodologies for monitoring, provide information about the efficacy of Preserve Area management techniques, and resolve critical uncertainties in order to improve Preserve Area management.

9.2 Permittee-initiated Adaptive Management

Permittee will implement and periodically evaluate the adaptive management provisions described in Section 7.2.7 of the Plan when changes in management practices are necessary to achieve the Plan's biological goals and objectives, or to respond to monitoring results or new scientific information. The overarching purpose of the monitoring and adaptive management program is to inform and refine Plan implementation so that it may achieve the goals and objectives of the Conservation Strategy as defined in Chapter 5 of the Plan. The Permittee will implement adaptive management by using information gathered from the monitoring program to inform and refine the future management of the Preserve Area as defined in Chapter 7 of the Plan. Permittee will be responsible for implementing the adaptive management program and will consider the recommendations of the Wildlife Agencies, science advisors, other land management agencies, and the public, as provided in this Section and as further described in Chapter 7 of the Plan. Permittee will notify and obtain concurrence of the Wildlife Agencies for any proposed adaptive management actions to be taken pursuant to this

section. In addition, any major changes in the adaptive management program will require the approval of the Wildlife Agencies prior to implementation, including, but not limited to, any proposed actions that would be inconsistent with the Plan or detrimental to a Covered Species, introducing new and untested management techniques, discontinuing and replacing ineffective management techniques that are recommended in the Conservation Strategy, or applying management techniques on a much larger or smaller scale than envisioned in the Plan.

9.3 Wildlife Agency-initiated Adaptive Management

If either Wildlife Agency determines that one or more of the adaptive management provisions in the Plan have been triggered and Permittee has not changed its management practices in accordance with Section 7.2.7 of the Plan, then the Service or CDFW will notify Permittee and direct Permittee to make the required changes. Within 30 days of receiving such notice, Permittee will make the required changes and report to the Wildlife Agencies on its actions. Such changes are provided for in the Plan, and hence do not constitute Unforeseen Circumstances or required amendment of the Permits or Plans, except as provided in this section.

9.4 Reductions in Mitigation

Permittee will not implement adaptive management changes that may result in less mitigation than provided for Covered Species under the original terms of the Plan, unless the Wildlife Agencies first provide written approval. Permittee may propose any such adaptive management changes by notice to the Wildlife Agencies, specifying the adaptive management modifications proposed, the basis for them, including supporting data, and the anticipated effects on Covered Species, and other environmental impacts. Within 120 days of receiving such notice, the Wildlife Agencies will either: (1) approve the proposed adaptive management changes, (2) approve them as modified by the Wildlife Agencies, or (3) notify Permittee that the proposed changes constitute Permit amendments that must be reviewed under Section 15.2 of this Agreement.

9.5 No Increase in Take

Permittee is not authorized to implement adaptive management modifications that would result in change in the nature of Take or an increase in the amount or level of Take of Covered Species beyond that analyzed in connection with the original Plan and any amendments thereto. Any such modification must be reviewed as a Permit amendment under Section 15.2 of this Agreement.

10.0 REPORTING

10.1 Annual Report

Permittee will prepare an Annual Report on Plan implementation as further described in Section 8.4 of the Plan. The Annual Report will summarize actions taken to implement the Plan for the period January 1 through December 31. The Annual Report will include the following:

- Description and location of Covered Activities completed, including a summary of avoidance and minimization measures undertaken for each Covered Activity and any on-site restoration that is required to offset temporary impacts.
- Summary of total acres of natural habitat types impacted by Covered Activities and an accounting of the Plan-to-date habitat types impacts in comparison with the impact caps approved by the Plan.
- For covered plant species only, accounting in ledger-type format of credits and debits as described at 5.6.2.2 of the Plan.
- Summary of any impacts exceeding 0.10 acre to natural habitat resulting from Preserve management Covered Activities and an accounting of Plan-to-date natural habitat impacts in comparison with the 11-acre cap approved by the Plan.
- Summary of the status of Preserve management and monitoring activities, effectiveness monitoring, any actions taken through and results of adaptive management and any responses to Changed Circumstances;
- Summary of the status of Permittee-funded restoration projects, including the results of monitoring activities and any remedial actions taken to achieve success criteria.
- Summary of land added to the Preserve System.
- Summary of Plan funding, including endowment budgets. This will include the amount of earnings, amount spent or obligated, and annual inflation adjustments.
- Any revisions and amendments to the Plan, IA or Permits.

Permittee will provide a copy of the Annual Report to all Parties by March 15 of the year following the Reporting Period. The Annual Report shall be presented at an OCTA public workshop or meeting and copies of the Annual Report shall be made available to the public.

10.1.1 Other Reports

Permittee will provide, within 30 days of being requested by the Service or CDFW, any additional information in its possession or control related to implementation of the Plan

for the purpose of assessing whether the terms and conditions of the Federal or State Permit, including the Plan, are being fully implemented.

10.1.2 Certification of Reports

All reports will include the following certification from a responsible official of Permittee who supervised or directed preparation of the report:

I certify under penalty of law, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate and complete.

10.1.3 Monitoring Results

As provided in Section 9.1, the Permittee will provide the results of compliance monitoring, effectiveness monitoring, and targeted studies in the Annual Report. To fulfill the compliance monitoring obligation as stated in Sections 7.1 and 8.4 of the Plan, Permittee will summarize the amount of Take on an annual basis and provide this information in the Annual Report. Permittee will provide a summary for each year and a cumulative summary for all years of total acres of natural habitat types affected by Covered Activities in comparison with the impact cap approved by the Plan. The Parties will use the results of the Permittee's monitoring to ensure that the Plan is being properly implemented and to measure the Permittee's progress toward the successful implementation of the Plan's Conservation Strategy (Chapters 5 and 7).

10.2 Monitoring by the Wildlife Agencies

The Wildlife Agencies may conduct inspections and monitoring of the site of any Covered Activity and of any land within the Preserve system, and may inspect any data or records required by this Agreement, the Plan or the Permits, in accordance with applicable law and regulations in order to monitor compliance with the Permits.

11.0 CHANGED CIRCUMSTANCES

Section 8.6.2 of the Plan identifies changes in the circumstances affecting the Plan's Preserve Areas or Covered Species that reasonably can be anticipated and planned for and describes the responses to such changes that will be carried out by Permittee.

11.1 Response to Changed Circumstances

Permittee will give notice to the Wildlife Agencies within seven days after learning that any of the Changed Circumstances listed in Section 8.6.2 of the Plan has occurred. As soon as practicable thereafter, but no later than 30 days after learning of the Changed Circumstances, Permittee will undertake the response described in Section 8.6.2 of the Plan and will report to the Wildlife Agencies on its actions. Permittee will make such modifications without awaiting notice from the Wildlife Agencies.

11.1.1 Wildlife Agency-initiated Response to Changed Circumstances

If either Wildlife Agency determines that Changed Circumstances have occurred and that Permittee has not responded in accordance with Section 8.6.2 of the Plan, one or both of the Wildlife Agencies will so notify Permittee and will direct Permittee to make the required changes. Within 30 days of receiving such notice, Permittee will make the required changes and report to the Wildlife Agencies on its actions. Such changes are provided for in the Plan, and hence do not constitute Unforeseen Circumstances or require amendment of the Plan or Permits.

12.0 FUNDING

Permittee warrants that it has and will expend such funds as may be necessary to fulfill its obligations under the Plan and Permits. Permittee shall ensure that all required mitigation, conservation, monitoring, reporting, and adaptive management measures are adequately funded during the term of this Agreement, and that management, maintenance, monitoring, reporting, and adaptive management activities on Preserve Area lands are adequately funded in perpetuity. Section 8.3 of the Plan describes the Permittee's funding capacity and the funding process under Renewed Measure M and demonstrates that Permittee will ensure adequate funding to implement the Plan. For the initial years of Plan implementation, during which time the non-wasting endowment is being fully funded over a period of up to fifteen years, OCTA will fully fund Plan implementation, including Preserve management and monitoring, using annual appropriations from the M2 EMP revenue stream.

Permittee will promptly notify the Wildlife Agencies of any material change in the Permittee's financial ability to fulfill its obligations under the Plan and this Agreement. In addition to providing any such notice, Permittee will also include in its Annual Report to the Wildlife Agencies reasonably available financial information to demonstrate the Permittee's ability to fulfill its funding obligations.

12.1 Funding Endowments for Long-Term Management and Monitoring of Preserves

Within six months of issuance of the State Permit, OCTA will ensure that one or more permanent, non-wasting endowments are established, after the review and approval of the Wildlife Agencies, to fund in perpetuity Preserve Management, Restoration, and Monitoring Activities as described in Section 6.3, and for no other purpose. OCTA may hold and manage any of the endowments under Government Code section 65968(b)(1) associated with a Preserve property that it holds, or, with the approval of the Wildlife Agencies, it may select a third party entity or entities qualified to hold and manage any of the endowments pursuant to Government Code Sections 65965 through 65968 .

OCTA may also be qualified to hold and manage any of the endowments under Government Code section 65968(b)(2) based on the arrangements for the endowment detailed below, including, but not limited to, OCTA's qualifications, capitalization rate, return objectives, and the spending rule and disbursement policies. If OCTA chooses to retain responsibility for management of a portion of the Preserve and the associated endowment, it has a track record of managing endowment funds, including those for transit and commuter rail operations, and has a fully functioning treasury with appropriate investment policies and fund management experience. OCTA's management of the endowment will follow the safeguards and audit features applied to the M2 program including, but not limited to the following:

- All spending will be subject to an annual independent audit.
- Spending decisions will be annually reviewed and certified by an independent Taxpayer Oversight Committee.
- The endowment will be subject to public review at least every 10 years and an assessment of progress in delivery, public support, and changed circumstances. Any significant proposed changes to the endowment will be approved by the Taxpayer Oversight Committee (TOC) and OCTA Board. The Wildlife Agencies will be consulted on changes to the endowment prior to its presentation to the TOC and OCTA Board.
- All entities receiving funds will report annually on expenditures and progress in implementing projects.
- At any time, at its discretion, the Taxpayer Oversight Committee may conduct independent reviews or audits of the spending of endowment funds.

OCTA's endowment will be governed by the Uniform Prudent Management of Institutional Funds Act. OCTA's endowment funds are held in separate and distinct funds. Each fund is legally protected from the other funds. OCTA utilizes fund accounting for the recording of these assets. Furthermore, the EOC was established pursuant to the M2 Ordinance No. 3 to make recommendations to the OCTA Board on the allocation of net revenues for the EMP. Changes to the use of M2 funds related to the EMP will also require recommendations by the EOC.

The estimated endowment amount(s) will be based on an effective spending rate of 2.5% of average endowment value over a specified period. The final endowment funding requirements will be based on a Property Analysis Report (PAR) or PAR-like analysis that will be completed by OCTA within seven years of Plan approval. This analysis will itemize and define the long-term obligations at each Preserve using Preserve-specific information developed for the Preserve RMPs. The final endowment funding level will be based upon actual negotiated long-term management contracts for each individual Preserve. OCTA will coordinate with the Wildlife Agencies and obtain the Wildlife Agencies' review and approval of the PAR analysis and determination of the permanent endowment funding requirements.

Permittee will accumulate funding for the endowment(s) using the ongoing revenue generated for the M2 EMP and will fully fund the endowment no later than 15 years following Permit issuance in accordance with Section 8.3.3 of the Plan. An initial estimate of the endowment funding requirements is included in Table 8-2 of the Plan. The capitalization rate for the endowment is 2.5 % and the return objective is the median return that is achieved by comparable non-profit organizations.

After the endowment is fully funded, OCTA shall disburse to the designated land manager(s) from the endowment annual, advance payments that the land manager(s) shall use to pay the costs of Preserve Management, Restoration, and Monitoring Activities as described in Section 6.3 to be performed by the Land Manager throughout the forthcoming calendar year. OCTA will require land manager(s) to submit payment requests between July 1 and September 30, and will disburse endowment payments in December for Preserve Management, Restoration, and Monitoring Activities for the next calendar year.

The Parties agree that the detailed accounting of the estimated costs associated with the various components of the Plan, as set out in Chapter 8 and Tables 8-1 and 8-2, reflects best efforts to determine the level of funding necessary to implement the Plan. The Parties further agree that the process provided under the Plan and summarized under this section 12.1 ensures that the endowment to be established is adequate, and that a schedule for fully funding the endowment has been established as stated in Government Code section 65966(o). Therefore, California Government Code sections 65966(b)-(e) do not apply to the endowment(s) under this Plan.

Where Permittee has funded an endowment to fully satisfy certain conservation obligations under the Plan and the endowment has been reviewed and approved in writing as adequate by the Wildlife Agencies, funding is deemed adequate to carry out such obligations, and the Wildlife Agencies shall not require additional funds or resources from the Permittee.

12.2 Effect of Inadequate Funding

If funding becomes inadequate to implement the Plan, the Wildlife Agencies will assess the impact of the funding deficiency on the scope and validity of the Permits. Except in cases of withdrawal by Permittee or permit revocation by the Wildlife Agencies, the Parties agree to meet and confer to develop a strategy to address the funding shortfall, and to undertake all practicable efforts to maintain the level of conservation and Take authorization afforded by the Permits consistent with protection of the Covered Species and their habitats until the funding situation can be remedied.

If circumstances warrant suspension or revocation of the Federal Permit or State Permit, in whole or in part, the applicable Wildlife Agency(ies) shall use its reasonable efforts to meet and confer with the Permittee within thirty (30) days of such determination to identify potential actions, if any, that may be available to forestall the suspension or revocation of a Permit(s).

13.0 REGULATORY ASSURANCES

13.1 Assurances Under the ESA

Upon issuance of the Federal Permit, Permittee shall receive regulatory assurances pursuant to the No Surprises Rule at 50 C.F.R. sections 17.22(b)(5) and 17.32(b)(5). Pursuant to the No Surprises Rule, as long as Permittee has complied with its obligations under the Plan, this Agreement and the Federal Permit with regard to the Covered Species and Covered Activities, the Service shall not require the Permittee to provide conservation and mitigation measures to respond to Unforeseen Circumstances that involve the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for economic development or use under the original terms of the Plan and Federal Permit without the consent of Permittee.

13.2 Assurances Under the NCCPA

13.2.1 Permittee

Under the NCCPA, CDFW provides assurances to permittees commensurate with the long-term conservation assurances and associated implementation measures that will be implemented under a plan (Fish & Game Code § 2820(f)). In its determination of the level and duration of the assurances to be afforded a permittee, CDFW takes into account the conditions specific to the plan, including such factors as:

- The level of knowledge of the status of covered species and natural communities;

- The adequacy of analysis of the impact of take on covered species;
- The use of the best available science to make assessments of the impacts of take, reliability of mitigation strategies, and appropriateness of monitoring techniques;
- The appropriateness of the size and duration of the plan with respect to quality and amount of data;
- The sufficiency of mechanisms for long-term funding of all components of the plan and contingencies;
- The degree of coordination and accessibility of centralized data for analysis and evaluation of the effectiveness of the plan;
- The degree to which a thorough range of foreseeable circumstances are considered and provided for under the adaptive management program; and
- The size and duration of the plan.

As long as the Permittee is properly implementing this Agreement, the OCTA NCCP/HCP, and the State Permit, CDFW will not seek to impose on the Permittee, for purposes of compliance with the NCCPA, any avoidance, minimization, mitigation, or conservation measures or requirements regarding the impacts of Covered Activities on Covered Species within the Plan Area beyond those required by this Agreement, the OCTA NCCP/HCP, and the State Permit. The assurances provided to the entities receiving permits under the NCCPA will ensure that if there are Unforeseen Circumstances, no additional financial obligations or restrictions on the use of resources will be required of the Permittees without their consent, unless CDFW determines that the Plan is not being implemented consistent with the substantive terms of this Agreement, the Plan, and the State Permit. Specifically, the NCCPA directs that,

[i]f there are Unforeseen Circumstances, additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources shall not be required without the consent of plan participants for a period of time specified in the implementation agreement, unless CDFW determines that the plan is not being implemented consistent with the substantive terms of the implementation agreement (Fish & Game Code § 2820(f)(2)).

The NCCPA requires that CDFW suspend or revoke a permit, in whole or in part, if the continued take of a Covered Species would jeopardize its continued existence.

13.3 Process to Respond to Unforeseen Circumstances

If the Service believes that an Unforeseen Circumstance exists, it shall provide written notice of its proposed finding of Unforeseen Circumstances to Permittee. The Service shall clearly document the basis for the proposed finding regarding the existence of Unforeseen Circumstances pursuant to the requirements of 50 C.F.R. sections 17.22(b)(5)(iii)(C) and 17.32(b)(5)(iii)(C). Within fifteen (15) days of receiving such

notice, the Permittee and the Service shall meet or confer to consider the facts cited in the notice and potential changes to the Plan. Pursuant to 50 C.F.R. sections 17.22(b)(5)(iii)(C) and 17.32(b)(5)(iii)(C), the Service shall make an Unforeseen Circumstances finding based on the best scientific evidence available, after considering any responses submitted by the Permittee pursuant to this section, and the Service shall have the burden of demonstrating that Unforeseen Circumstances exist.

13.4 Interim Obligations Upon a Finding of Unforeseen Circumstances

If either Wildlife Agency finds that an Unforeseen Circumstance has occurred with regard to a Covered Species and that additional measures may be required for the Covered Species as a result, during the period necessary to determine the nature, scope and location of any additional measures, the Permittee will avoid causing an appreciable reduction in the likelihood of the survival and recovery of the affected species. The Permittee will not be responsible for implementing any additional measures contrary to the regulatory assurances provided under the No Surprises Rule or the NCCPA unless the Permittee consents to do so.

14.0 TERM

14.1 Effective Date

This Agreement shall be effective with regard to the Federal Permit and State Permit, respectively, on the date, following execution of the Agreement by all Parties, on which the Permit is issued.

14.2 Initial Term

This Agreement, the Plan, and the Federal and State Permits, respectively, will remain in effect for an initial term of 40 years from issuance of the original Permits or until termination of the affected Permit, whichever occurs sooner.

14.3 Extension of the Permits

Upon agreement of the Parties and compliance with all applicable laws, the Permits may be renewed in accordance with regulations of the Wildlife Agencies in force on the date of such renewal.

15.0 AMENDMENTS AND PERMIT AMENDMENTS

15.1 Minor Amendments to the Plan

15.1.1 Minor Amendments

The Permittee, may, under certain circumstances, request an amendment to the Plan without amending the Permits, provided such amendments are minor in nature, the effects on the Covered Species involved and the levels of take resulting from the amendment are not greater than those described in the Plan and provided for by the Permits, and the action is otherwise consistent with the Plan, this Agreement, and the Permits and will not result in new or greater environmental effects beyond those analyzed under NEPA and CEQA for the Plan as originally approved. Minor Amendments will not alter the terms of the HCP Permit or NCCPA Permit.

Examples of actions that may require Minor Amendments to the Plan include, but are not limited to:

- Change in location of a covered freeway improvement project provided that the revised project location is within the Permit Area, changes do not exceed the caps for impacts on habitat types, result in an increased level of take for Covered Species, or result in new environmental impacts that were not addressed in the Plan and the Environmental Impact Report/Environmental Impact Statement for the Plan. OCTA will be required to address the project changes and demonstrate that the changes are consistent with these criteria.
- Addition of a covered minor freeway capital improvement project as described in Section 6.2. These potential additional projects must be consistent with the scope of the covered freeway projects, occur within the Permit Area, and cannot exceed the acreage impact caps established for the Plan. These projects also cannot result in additional take of Covered Species, or be significantly different or have greater impacts to the environment than what was analyzed within the Environmental Impact Report/Environmental Impact Statement for the Plan, as determined by the Wildlife Agencies.
- Change to cap of 500 individuals of each covered plant species to no more than 1,000 individuals if OCTA can demonstrate to the Wildlife Agencies that mitigation achieved through the Plan conservation actions or through project-specific biological superior alternative(s) provides a biological benefit that is greater than the anticipated impacts. The relative biological benefit of impacts and conservation/restoration will depend not only on the number of individuals impacted or conserved, but also on factors such as long-term sustainability of the occurrences, importance for maintaining

connectivity and contiguity between other occurrences in the area, and other factors that may make the occurrences in question biologically valuable or unique.

OCTA will submit in writing to the Wildlife Agencies a description of the proposed Minor Amendment in the form of an addendum with the following subject items addressed:

- An explanation why the Minor Amendment is necessary or desirable.
- An explanation of why OCTA believes the effects of the proposal are not significantly different from those described in the original Plan and would not result in greater impacts on the environment, including the Covered Species and their habitats, or levels of take beyond those analyzed in connection with the Plan and the Permits.
- An analysis of the environmental impacts of the proposed change.

OCTA may propose a Minor Amendment to the Plan by providing a written submission to the Wildlife Agencies. The Wildlife Agencies will use their reasonable efforts to respond to proposed Minor Amendments within 60 days of receipt of such submission by either approving or denying the Minor Amendment or by notifying the OCTA that the proposed Minor Amendment must be processed as a Permit Amendment. Proposed Minor Amendments will become effective upon the Wildlife Agencies' written approval. The Wildlife Agencies will not approve Minor Amendments to the Plan if they determine that such Minor Amendments will result in adverse effects on the environment that are new or significantly different from those analyzed in connection with the original Plan or may result in additional take that was not analyzed in connection with the original Plan.

15.1.2 Major Amendments

Major amendments to the Plan will require detailed analyses of the anticipated effects of the proposed action on conserved habitats and Covered Species, on sensitive habitats and species not addressed in the Plan, and on the additional conservation to be provided through the Amendment process. Major amendments will be processed as Permit Amendments in accordance with all applicable federal and state statutory and regulatory requirements, including NEPA and CEQA. The Wildlife Agencies will provide technical assistance to Permittee during the amendment process. All Major Amendments to the Plan approved by the Wildlife Agencies will be memorialized through an addendum to the Plan, a Permit Amendment, and, if necessary, an amendment to this Agreement, and will be documented in the Annual Report.

Major Amendments to the Plan and Permits will be required if a proposed action would include but are not limited to any of the following:

- Proposed increased level of take of a Covered Species. For the three plant species, this level would include any cumulative impact above 1,000 individuals.
- Proposed addition of a Covered Species.
- Proposed addition or substantial modification to Covered Activities associated with Preserve management that could reduce conservation commitments in the Plan.
- Proposed addition of a freeway capital improvement project that does not meet the criteria included in Section 6.2 and would require additional conservation to offset impacts.
- Proposed addition of operation and maintenance of constructed freeway capital improvement projects as a Covered Activity.
- Proposed change in the location of a covered freeway project that is outside of the Permit Area, and would result in impacts that exceed caps to habitat type(s), and/or results in new environmental impacts that were not addressed in the Plan and the Environmental Impact Report/Environmental Impact Statement for the Plan.
- Increased impacts associated with covered freeway capital improvement projects that result in the caps for habitat type(s) to be exceeded. Adjustments to the caps can be made based on an analysis of conservation achieved under the Plan and if there is a determination, with the written concurrence of the Wildlife Agencies, that there are excess credits to warrant the caps on a specific habitat to be increased.
- Increased permanent impacts within Preserves that would result in the cap of 13 acres of impact on natural habitat to be exceeded.
- Proposed addition of a Preserve or other conservation actions that contribute to the conservation credits under the Plan.

15.2 Amendment to this Agreement

In addition to other approval requirements identified in this Section that may apply, this Agreement may only be amended consistent with applicable law and with the consent of each Party.

16.0 ENFORCEMENT OF PERMIT AND DISPUTE RESOLUTION

16.1 General Authorities and Legal Rights under Federal Permit

Nothing contained in this Agreement is intended to, or shall, limit the authority of the United States government to seek civil or criminal penalties or otherwise fulfill its enforcement and other responsibilities under the ESA or other applicable federal law. Nothing contained in this Agreement limits the rights of Permittee under the U.S. Constitution or other applicable federal or state law to seek redress against the Service as otherwise permitted by law.

16.1.1 Permit Suspension

The Service may suspend the Federal Permit, in whole or in part, for cause in accordance with the laws and regulations in force at the time of such suspension. (*See* 50 C.F.R. §§ 13.27-13.29, 17.22(b) and 17.32(b)). However, except where the Service determines emergency action is necessary to avoid irreparable harm to a Covered Species, it will not suspend the Federal Permit without first requesting the Permittee to take appropriate remedial actions, if any such actions are available, and providing the Permittee with written notice of the facts or conduct which may warrant the suspension, and an adequate and reasonable opportunity, including, where appropriate, use of the voluntary dispute resolution process outlined in Section 16.4, to demonstrate why suspension is not warranted.

16.1.2 Reinstatement of Suspended Permit

In the event the Service suspends the Federal Permit, in whole or in part, as soon as practicable, and if possible within ten (10) days after such suspension, the Service shall confer with the Permittee concerning actions, if any, they would allow the suspension to be lifted. After conferring with the Permittee, the Service shall identify reasonable specific actions, if any, necessary to effectively redress the suspension. In making this determination the Service will consider the requirements of the ESA, regulations issued thereunder, the conservation needs of the Covered Species, the terms of the Federal Permit and any comments or recommendations received from the Permittee. As soon as practicable, and if possible within thirty (30) days after the conference, the Service shall send Permittee written notice of any available, reasonable actions necessary to effectively redress the suspension. Upon Permittee's timely and acceptable performance of such actions, the Service will promptly reinstate the Federal Permit. It is the general intent of the Parties that in the event of a total or partial suspension of the Federal Permit, and provided such action is appropriate in light of the circumstances that resulted in the suspension, the Parties will act expeditiously and cooperatively to reinstate the Federal Permit.

16.1.3 Surrender or Revocation of the Federal Permit

Permittee may withdraw from the Federal Permit by surrendering the Federal Permit to the Service in accordance with the regulations of the Service in force on the date of such surrender. (These regulations are currently codified at 50 CFR 17.22(b)(7) and 17.32(b)(7) and by their express terms apply in place of 50 CFR 13.26 to the extent of any conflict). In addition, the Service may revoke the Federal Permit for cause. (These regulations are currently codified at 50 CFR 17.13.28, 17.22(b)(8) and 17.32(b)(8)). Upon surrender or revocation of the Federal Permit, no further Take shall be authorized under the Permit. Notwithstanding surrender of the Federal Permit by Permittee or revocation of the Federal Permit by the Service, Permittee will remain obligated to fulfill any existing and outstanding minimization and mitigation measures required under the Plan, this Agreement, and the Federal Permit for any Take that occurred prior to surrender or revocation. A surrendered Federal Permit shall be deemed cancelled only upon a determination by the Service that such minimization and mitigation measures have been implemented.

16.2 State Permit

16.2.1 Suspension or Revocation of the State Permit

CDFW may suspend or revoke, in whole or in part, the State Permit in the event that it determines that the Permittee has failed to fulfill their obligations under the Plan, this Agreement, or the State Permit as stipulated in Section 7.3 of the Agreement. Unless an immediate suspension is necessary to avoid jeopardy, CDFW shall not suspend or revoke the State Permit without first notifying in writing the Permittee of the basis for its determination and the proposed action to revoke or suspend and meeting and conferring with the Permittee regarding the matter. The Parties shall meet and confer within fifteen (15) days of issuance of such notice to assess the action or inaction that warranted CDFW's determination and to identify any appropriate responsive measures that may be taken. Within forty-five (45) days of receiving notice from CDFW, Permittee shall either satisfy CDFW that they are in compliance with the State Permit or reach an agreement with CDFW to expeditiously obtain compliance.

Following this forty-five (45) day period, CDFW may suspend, but shall not revoke the State Permit until such time as the review process set forth in Section 16.4 of this Agreement has been completed, provided the process has been invoked by the Permittee.

16.2.2 Rough Proportionality

Section 2820 (b)(9) of the Fish and Game Code requires NCCP Permittees to ensure that implementation of mitigation and conservation measures on a plan basis is roughly

proportional in time and extent to the impact on habitat or Covered Species authorized under the Plan. Permittee will ensure rough proportionality after the Permits have been issued by implementing mitigation and conservation measures ahead of impacts from Covered Activities, as described in Chapter 5 of the Plan. As further described in Section 5.8.2 and Tables 5.3, and 5.5 of the Plan, the amount of each land cover type restored, created, and added to the Preserve Area as a proportion of the total requirement for each land cover type will be equal to or greater than the impact on that land cover type as a proportion of the total impact expected by all Covered Activities. The Permittee will fulfill the requirements of this Section and Section 5.8.2 of the Plan so long as it ensures that the pace at which the Preserve is created, and at which required habitat restoration and enhancement occurs throughout the Plan Area in core habitat areas and within key habitat linkages and riparian corridors, does not fall behind the pace at which Covered Activities impact habitat by more than ten percent (10%) of the commitments made in the Plan for each land cover type. The Permittee will include in the Annual Report a summary of all take that has occurred as a result of all Covered Activities (i.e., cumulative take; not just for that particular year) and the amount of mitigation undertaken to show that the Plan is meeting the rough proportionality requirement. If at any time CDFW determines that the requirement for rough proportionality on a Plan basis is not being met, it will provide written notification to Permittee. Permittee will either: (1) regain rough proportionality within forty-five (45) days; or (2) enter into an agreement with CDFW within forty-five (45) days, which will set a course of action to expeditiously regain rough proportionality.

If Permittee does not regain rough proportionality within forty-five (45) days or enter into an agreement with CDFW within forty-five (45) days setting a course of action to regain rough proportionality, CDFW shall suspend or revoke the NCCP Permit, in whole or in part, pursuant to Fish and Game Code section 2820(c).

16.2.3 Approval, Adoption or Amendment of Future Plans or Projects by Permittee

The approval, adoption, or amendment of a future plan or project by Permittee that is inconsistent with the objectives and requirements of the Plan, without the concurrence of the Wildlife Agencies, is grounds for suspension or revocation of the State Permit. If CDFW determines, after conferring with the Permittee, that such a plan or project has been approved, adopted, or amended in a manner that is substantially inconsistent with the objectives or requirements of the Plan, CDFW will provide written notice to the Permittee documenting the nature of the inconsistency.

Within fifteen (15) days of the issuance of such notice, CDFW and the Permittee shall meet and confer to consider the basis for CDFW's determination and to identify steps that may be taken to address any such inconsistency. In the event that the inconsistency is not satisfactorily addressed within forty-five (45) days or within a period mutually agreed to by the CDFW and the Permittee, CDFW, at its discretion, may suspend or revoke the State Permit, in whole or in part.

16.2.4 Reinstatement of Suspended Permit

In the event CDFW suspends the State Permit, as soon as possible but no later than ten (10) days after such suspension, CDFW shall confer with the Permittee concerning how the violation or breach that led to the suspension can be remedied. At the conclusion of any such conference, CDFW shall identify reasonable specific actions necessary to effectively redress the violation or breach. In making this determination, CDFW shall consider the requirements of the NCCPA, the conservation needs of the Covered Species, the terms of the State Permit and this Agreement, and any comments or recommendations received during the meet and confer process. As soon as possible, but not later than thirty (30) days after the conference, CDFW shall send the Permittee written notice of the reasonable actions necessary to effectively redress the violation or breach. Upon performance of such actions, CDFW shall immediately reinstate the State Permit. It is the intent of the Parties that in the event of any suspension of the State Permit, all Parties shall act expeditiously and cooperatively to reinstate the State Permit.

16.2.5 Obligations in the Event of Suspension or Revocation

In the event of revocation, termination, or suspension of the State Permit, Permittee will remain obligated to fulfill any existing and outstanding minimization and mitigation measures and conservation measures required under this Agreement, the Plan, and the NCCP Permit, including measures to ensure rough proportionality under the NCCPA and Section 16.2.2., for any Take that occurs prior to such revocation, termination, or suspension, until CDFW determines that all Take of Covered Species that occurred under the NCCP Permit has been mitigated in accordance with this Agreement, the Plan, and the NCCP Permit.

16.3 Dispute Resolution

The Parties recognize that disputes concerning implementation of, compliance with, or termination of this Agreement, the Plan, and the Permits may arise from time to time. The Parties agree to work together in good faith to resolve such disputes, using the informal dispute resolution procedures set forth in this section, or such other procedures upon which the Parties may later agree. However, if at any time, the Service or CDFW determines that circumstances so warrant, either agency may seek any available administrative or judicial remedy without engaging in or waiting to complete informal dispute resolution.

16.3.1 Dispute Resolution Process

Unless the Parties agree upon another dispute resolution process, or unless the Service or CDFW has initiated administrative or judicial proceedings, the Parties may use the following process to attempt to resolve disputes:

(a) The USFWS or CDFW will notify Permittee of the alleged non-compliance with, or violation of the Permit, including the Plan and this Agreement, the basis for contending that the non-compliance or violation has occurred, and the remedies the affected Wildlife Agency proposes to correct the alleged non-compliance or violation. Where Permittee alleges that one or both Wildlife Agency's supervision of the Permit, including Plan implementation, is inconsistent with the terms of the Permit, Permittee will notify both Wildlife Agencies of its objection, the basis for the objection and the manner in which Permittee believes the Permit should be interpreted and implemented.

(b) The notified parties will have 30 days, or such other time as may be agreed to by the Parties, to respond. During this time any Party may seek clarification of the information provided in the initial notice. The Parties will use their reasonable efforts to provide any information then available to it that may be responsive to such inquiries.

(c) Within 10 days after such response was provided or was due, a representative from each Party will meet and negotiate in good faith toward a solution satisfactory to all Parties, or will establish a specific process and timetable to seek such a solution.

(d) If any issues cannot be resolved through such negotiations, the Parties may consider non-binding mediation and other alternative dispute resolution processes and, if a dispute resolution process is agreed upon, will make good faith efforts to resolve all remaining issues through that process.

17.0 MISCELLANEOUS PROVISIONS

17.1 Incorporation of the Plan

The Plan and each of its provisions are intended to be and by this reference are incorporated herein. Notwithstanding such incorporation, it is acknowledged by the parties that the Plan was drafted by the Permittee and submitted to the Service and CDFW in support of applications for Federal and State Permits. Characterizations, analyses and representations in the Plan, and in particular, characterizations, analyses and representations in the Plan of Federal or State laws, regulations, and policies, represent the views of the Permittee and shall not control the administration of the Permits by the Service and CDFW in accordance with Federal and State laws, regulations, and policies. In the event of any inconsistency between the Plan and this Agreement, the provisions of

this Agreement control. Similarly, in the event of any inconsistency between the Plan or this Agreement and the Federal or State Permits, the Permits control.

17.2 Relationship to CESA, the NCCPA, the ESA, and Other Authorities

The terms of this Agreement shall be governed by and construed in accordance with the federal and state Permits, NCCPA, the ESA, and other applicable federal and State law. In particular, nothing in this Agreement limits or is intended to limit the authority of the Wildlife Agencies to seek penalties or otherwise fulfill their responsibilities under CESA, the NCCPA, or the ESA. Moreover, nothing in this Agreement is intended to limit or diminish the legal obligations and responsibilities of the Service as an agency of the federal government or of CDFW as an agency of the State of California.

17.3 Changes in Environmental Laws

It is acknowledged by the Parties that through acceptance of the Permits, the Permittee commits to perform substantial avoidance, minimization, mitigation, conservation, and management measures as set forth in the Plan, this Agreement and the Permits. If a change in, or an addition to, any federal or state law governing or regulating the impacts of Covered Activities on land, water or biological resources as they relate to Covered Species, including, but not limited to, the ESA, NEPA, NCCPA, CESA, and CEQA, the Wildlife Agencies, to the extent consistent with governing law, shall give due consideration to the measures required under the Plan in applying the new laws and regulations to the Permittee.

17.4 References to Regulations

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

17.5 Applicable Laws

All activities undertaken pursuant to this Agreement, the Plan, or the Permits must be in compliance with all applicable State and federal laws and regulations.

17.6 Governing Law

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

17.7 Independent State and Federal Permits

The State and Federal Permits are independent such that revocation of the State Permit or of the Federal Permit does not automatically cause revocation of the other Permit.

17.8 Availability of Funds

Implementation of this Agreement and the Plan by the Service is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The Parties acknowledge that the Service will not be required under this Agreement to expend any federal agency's appropriated funds unless and until an authorized official of the agency affirmatively acts to commit to such expenditures as evidenced in writing.

Implementation of this Agreement and the Plan by CDFW is subject to the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the Treasury of the State of California. The Parties acknowledge and agree that CDFW will not be required under this Agreement to expend any state appropriated funds unless and until an authorized official of that agency affirmatively acts to commit such expenditure as evidenced in writing.

17.9 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.

17.10 No Third-Party Beneficiaries

Without limiting the applicability of rights granted to the public pursuant to the ESA, 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, nor shall it authorize anyone to maintain a suit for personal injuries or damages pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed under existing law.

17.11 Agreement is not an Enforceable Contract as between Service and Permittee

Notwithstanding any language to the contrary in this Agreement, this Agreement is not intended to create and shall not be construed to create an enforceable contract between Permittee and the Service under law with regard to the Permit, and neither the Service nor Permittee shall be liable in damages to each other or to any other third party for any performance or failure to perform any obligation identified in this Agreement. The sole purpose of this Agreement as between the Service and Permittee is to clarify the provisions of the Plan and the processes the Parties intend to follow to ensure successful implementation of the Plan in accordance with the Permit and applicable federal law. Notwithstanding the foregoing, the Service intends to follow the provisions of this Agreement in administering the Permit, and Permittee intends to follow the provisions of this Agreement in implementing the Plan. This Agreement will be incorporated by reference into the Federal Permit.

17.12 Defense

Upon request by OCTA, CDFW will, to the extent authorized by California law, including but not limited to Section 7 of Article 16 of the California Constitution and subject to the responsibilities of the California Attorney General, cooperate with the Permittee in defending lawsuits regarding the Plan, this Agreement or the State Permit, and lawsuits against Permittees arising out of CDFW's approval of the State Permits. Subject to Section 17.8 (Availability of Funds), the Service, upon the request of Permittee, and subject to the responsibilities of the U.S. Department of Justice in the conduct of litigation, will use reasonably available resources to provide appropriate support to Permittee in defending, consistent with the terms of the Plan, this Agreement and the Federal Permit, lawsuits against Permittee, arising out of the Service's approval of the Permit.

17.13 Successors and Transferees

This Agreement and each of its covenants and conditions shall inure to the benefit of the Parties and their respective successors and transferees incident to transfer of the Permits under applicable law. Succession or other transfer of the Permits will be governed by

provisions of the ESA, CESA, and NCCPA pertaining to the right of succession or transfer of Permits.

17.14 Notices

Any notice permitted or required by this Agreement shall be in writing, delivered personally to the persons listed below, or shall be deemed given five (5) days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or at such other address as any Party may from time to time specify to the other Parties in writing. Notices may be delivered by facsimile or other electronic means, provided that they are also delivered personally or by certified mail. Notices shall be transmitted so that they are received within the specified deadlines.

Assistant Regional Director
Pacific Southwest Region
United States Fish and Wildlife Service
2800 Cottage Way, Room W-2605,
Sacramento, CA 95825
Telephone: (916) 414-6600
Fax: (916) 414-6712

Field Supervisor
Carlsbad Field Office
United States Fish & Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
Telephone: (760) 431-9440
Fax: (760) 431-5901

Deputy Director, Ecosystem Conservation Division
California Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814
Telephone: (916) 653-6956
Fax: (916) 653-9890

Chief Executive Officer
Orange County Transportation Authority
550 S. Main Street
Orange, CA 92863
Telephone: (714) 560-5343

17.15 Calendar Days

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

17.16 Response Times

Except as otherwise set forth herein or as statutorily required by CEQA, NEPA, CESA, ESA, NCCPA or any other laws or regulations, the Parties will use reasonable efforts to respond to written requests from any Party within a forty-five (45) day time period.

18.0 MISCELLANEOUS PROVISIONS BETWEEN PERMITTEE AND CDFW

The following provisions apply as between the Permittee and CDFW.

18.1 Entire Agreement

This Agreement, together with the Plan and the Permits, constitutes the entire agreement among the Parties. It supersedes any and all other agreements, either oral or in writing, among 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 or 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.

18.2 Severability

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

18.3 No Partnership

Neither this Agreement nor the Plan shall make or be deemed to make any Party to this Agreement the agent for or the partner of any other Party.

18.4 Elected Officials Not to Benefit

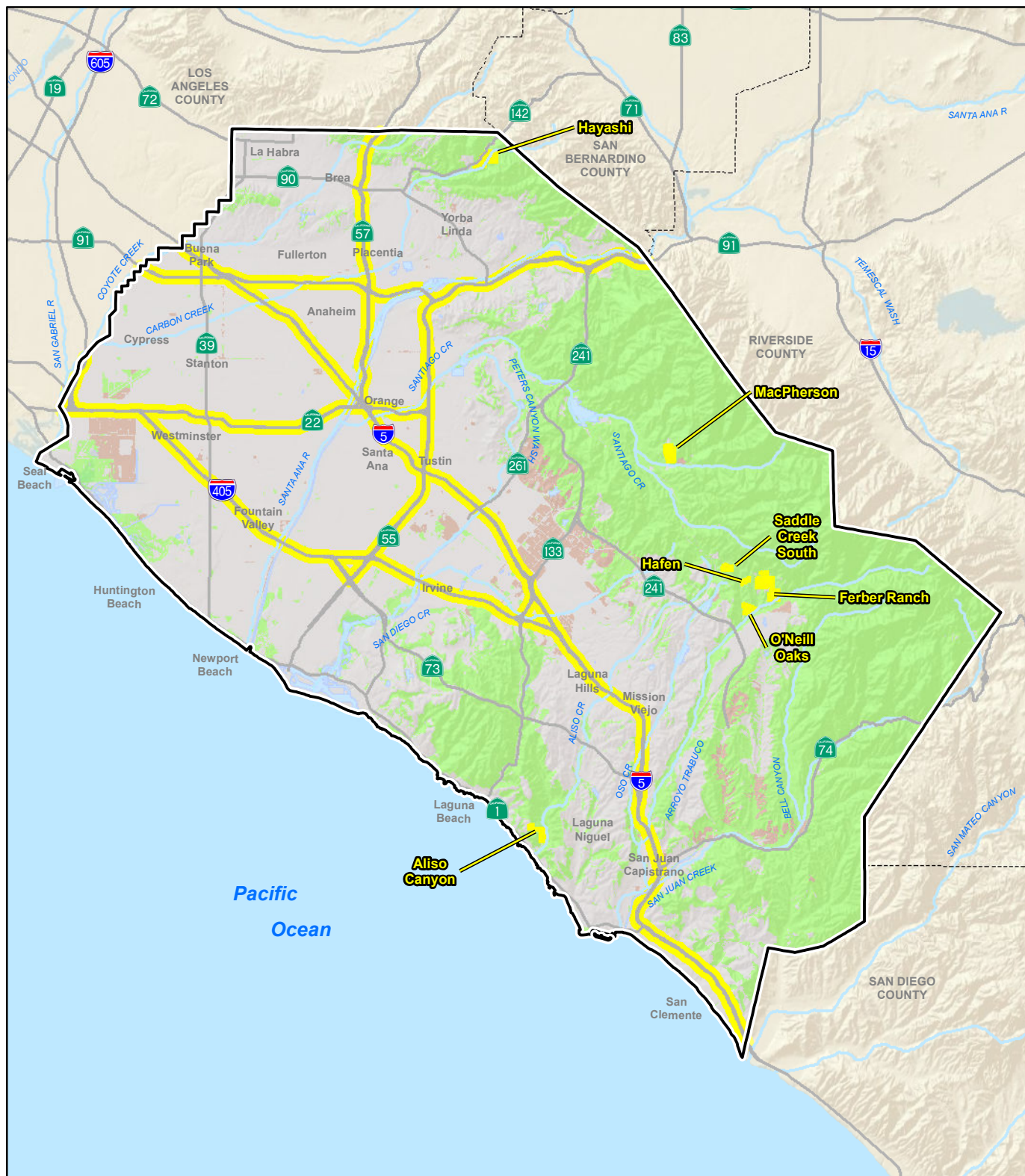
No member of or delegate to the California State Legislature or the United States Congress will be entitled to any share or part of this Agreement, or to any benefit that may arise from it.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date that the Wildlife Agencies issue the Permits.

BY _____ Date _____
Deputy Regional Director
Pacific Southwest Region
U.S. Fish and Wildlife Service
Sacramento, California

BY _____ Date _____
Sandra Morey
Deputy Director
Ecosystem Conservation Division
California Department of Fish and Wildlife

BY _____ Date _____
Darrell Johnson
Chief Executive Officer
Orange County Transportation Authority



Legend

- Plan Area
- Permit Area
- Natural Habitats
- Agriculture
- Developed

Vegetation Source: TAIC/ICF 2013

N



Miles

0 6



Plan and Permit Area

Exhibit A

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Exhibit B

Covered Species for the Plan and their Listing Status

Common Name	Scientific Name	Special-Status ¹
Plants		
Intermediate mariposa lily	<i>Calochortus weedii</i> var. <i>intermedius</i>	CNPS:1B.2
Many-stemmed dudleya	<i>Dudleya multicaulis</i>	CNPS:1B.2
Southern tarplant	<i>Centromadia parryi</i> ssp. <i>australis</i>	CNPS:1B.1
Fish		
Arroyo chub	<i>Gila orcutti</i>	CDFW:SSC
Reptiles		
Coast horned lizard	<i>Phrynosoma blainvillii</i>	CDFW:SSC
Orangethroat whiptail	<i>Aspidoscelis hyperythra</i>	CDFW:WL
Western pond turtle	<i>Emys marmorata</i>	CDFW:SSC
Birds		
Cactus wren	<i>Campylorhynchus brunneicapillus</i>	USFWS:BCC; CDFW:SSC
Coastal California gnatcatcher	<i>Polioptila californica californica</i>	FT; CDFW:SSC
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE; SE
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE; SE
Mammals		
Bobcat	<i>Lynx rufus</i>	--
Mountain lion ²	<i>Puma concolor</i>	CDFW:SPM

¹ CNPS: Taxa with a California Rare Plant Rank of 1B are considered rare, threatened, or endangered in California and elsewhere and the majority are endemic to California. A Threat Rank of 0.1 indicates that it is seriously threatened in California (over 80% of occurrences threatened/high degree and immediacy of threat). Threat Rank 0.2 indicates that it is moderately threatened in California (20-80% of occurrences threatened/moderate degree and immediacy of threat).

² Mountain lion, designated as a CDFW Specially Protected Mammal Species, is included on the list of Covered Species for the federal HCP permit but not under the state NCCP permit.

ABBREVIATIONS: CNPS = California Native Plant Society; CDFW = California Department of Fish and Wildlife; SSC = California Species of Special Concern; SPM = California Specially Protected Mammal; USFWS = U.S. Fish & Wildlife Service; BCC = Birds of Conservation Concern; FT = Federally Threatened; FE = Federally Endangered; SE = State Endangered.

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Certificate of Inclusion Under the State Permit

The California Department of Fish and Wildlife (CDFW) has issued a permit to OCTA pursuant the Natural Community Conservation Planning Act, California Fish and Game Code section 2835 (State Permit) authorizing the Take of certain species (Covered Species) in accordance with the terms and conditions of the OCTA Renewed Measure M Habitat Conservation Plan/Natural Community Conservation Plan (Plan) and the associated Implementing Agreement (Agreement). The State Permit is issued for a term of 40 years. Under the State Permit, OCTA is authorized to take the Covered Species incident to certain activities (Covered Activities) as defined in the Plan provided all of the terms and conditions of the Plan, the Agreement, and the State Permit are met. The Plan and the Agreement section 7.1 provide that OCTA may extend Take authorization under the State Permit to the California Department of Transportation (Caltrans) by executing a Certificate of Inclusion with Caltrans. OCTA, as Permittee, remains liable for compliance with the Plan, the Agreement and the State Permit, including those aspects implemented by Caltrans pursuant to this Certificate of Inclusion.

You (Caltrans) are engaged in [*insert freeway capital improvement project or activity name*] (Project), which is one of the Covered Activities covered by the State Permit. By executing this Certificate of Inclusion, you agree: to comply with all applicable terms, conditions, and requirements of the Plan, the Agreement, and the State Permit that are within your responsibilities detailed in the Agreement section 8.2.1, including implementing the avoidance and minimization measures for the Project set forth in detail in Exhibit “A” to this Certificate of Inclusion; to assume liability for any non-compliance with such applicable terms and conditions; to the enforcement of such applicable terms and conditions by Permittee and by CDFW against you; and to allow access to your property by Permittee and CDFW for purposes of monitoring and enforcing your compliance with such applicable terms and conditions. If you fail to abide by the applicable terms and conditions of the Plan, Agreement, and State Permit in carrying out the Project, the Take authorization extended to you through this Certificate of Inclusion will lapse and you may be subject to civil and criminal liability under the California Endangered Species Act.

Your Take authorization under the State Permit will become effective upon execution of this Certificate of Inclusion by you and by OCTA. In the event the Project is assumed by another, you agree to immediately notify OCTA.

Signature (Caltrans)

DRAFT

Title

OCTA Representative: _____

Date: _____

DRAFT

Exhibit A

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Certificate of Inclusion

The United States Fish and Wildlife Service (Service) has issued a take authorization to the Orange County Transportation Authority (OCTA or Permittee) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, 16 U.S.C. §1539(a)(1)(B) (Permit). The Permit is issued for a term of forty (40) years and authorizes the take of certain species ("Covered Species") within the area covered by the OCTA Renewed Measure M Habitat Conservation Plan/Natural Community Conservation Plan (Plan). Under the Permit, OCTA is authorized to take the Covered Species incident to certain activities (Covered Activities) as defined in the Plan provided all of the terms and conditions of the Plan, associated Implementing Agreement, and Permit are being met. In accordance with 50 CFR § 13.25(d), the Permittee may extend the incidental take authorization granted to it to certain third parties, provided such third parties are under the Permittee's direct control for purposes of implementing the requirements of, and complying with the terms and conditions of the Plan, Implementing Agreement and Permit. The Plan and the Implementing Agreement (Agreement) provide that OCTA may extend take coverage under the Permit to the California Department of Transportation (Caltrans) by executing a Certificate of Inclusion.

You (Caltrans) are engaged in [*insert freeway capital improvement project or activity name*], which is one of the Covered Activities covered by the Permit. By executing this Certificate of Inclusion, you commit to implement all of the avoidance and minimization measures set forth in detail in Exhibit "A" to this Certificate of Inclusion. By executing this Certificate of Inclusion, you further acknowledge and consent to the enforcement against you of the terms and conditions and applicable requirements of the Plan, Agreement and Permit and consent to allow access to your property, in accordance with Section of the Agreement, by Permittee, and the U.S. Fish and Wildlife Service for purposes of monitoring your compliance with the Plan, Agreement and Permit. If you fail to abide by the terms and conditions of the Plan, Agreement and Permit in carrying out the Covered Activity, the incidental take authorization granted to you through the Certificate of Inclusion will lapse and you may also be subject to civil and criminal liability under the Endangered Species Act.

Extension to you of incidental take coverage under the Permit will become effective upon execution of this Certificate of Inclusion by you and by OCTA. In the event the Covered Activity is assumed by another, you agree to immediately notify OCTA. Any subsequent operator will not be insulated from liability for incidental take until and unless such subsequent operator and OCTA execute a new Certificate of Inclusion. OCTA, as Permittee, remains liable for compliance with all of the terms and conditions and applicable requirements of the Plan, Agreement and Permit, including those implemented by Caltrans pursuant to this Certificate of Inclusion.

Signature (Caltrans)

Title

OCTA Representative: _____
Date: _____

Exhibit A

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October 26, 2016 Environmental Oversight Committee
Agenda Item 6 Summary
Chino Hills State Park Restoration Project

Overview

Measure M2 (M2) includes an Environmental Mitigation Program (EMP) to deliver comprehensive mitigation for the environmental impacts of freeway projects in exchange for streamlined project approvals from the California Department of Fish and Wildlife, and the United States Fish and Wildlife Service (collectively referred to Wildlife Agencies). As part of the Early Action Plan, approximately \$55 million was authorized by the Orange County Transportation Authority (OCTA) Board of Directors (Board) to fund conservation property acquisitions, habitat restoration projects, and to provide support/development for the NCCP/HCP. This translates to approximately \$42 million and \$10.5 million for acquisitions and restoration, respectively. To date, two rounds of restoration funding have been approved by the Board, totaling just over \$10 million.

Recommendation

- A. Endorse the California Department of Parks and Recreation's revised scope of work as described herein for the Chino Hills State Park Restoration Project.

Background

The California Department of Parks and Recreation (State Parks) submitted several project proposals to be considered for funding during the second round of the restoration project evaluations. Two projects (North Coal Canyon and Chino Hills State Park) were selected and received Board approval (May 14, 2012). The North Coal Canyon project will restore five and a half acres of coastal sage scrub and was awarded \$247,500 to complete. In addition, State Parks was awarded funding for a second restoration project named the Chino Hills State Park (CHSP) project. This project proposal included riparian (15 acres) and cactus scrub (6 acres) restoration in two different areas within Chino Hills State Park for a total cost of \$193,000.

Since the projects' approval, State Parks has developed restoration plans and has coordinated with contractors to develop the best implementation strategy for each project. The North Coal Canyon restoration plan has been approved by the Wildlife Agencies and is well on its way towards implementation. The CHSP restoration project has a proposed change in scope. This project is still pending final approval by the Wildlife Agencies and has therefore, not begun implementation.

Discussion

A restoration plan was developed for the CHSP project by State Parks staff. State Parks staff initially verified that the project could successfully be completed within the Board approved budgeted amount of \$193,000. To accomplish the restoration project at this rate, State Parks had to be creative with its implementation strategy. State Parks coordinated with both the California Conservation Corps (CCC) as well as the Orange County Conservation Corps (OCCC) to determine if the project was within their abilities.

October 26, 2016 Environmental Oversight Committee
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Chino Hills State Park Restoration Project

Specifically, the riparian component of the project would require attention to multiple vegetation types and a complex irrigation system. Through this coordination, it was determined that the scope of this project was beyond the abilities of both of these entities for the budgeted amount.

Subsequently, State Parks met with the Orange County Conservation Corps (OCCC) and determined the project could be completed within budget if the riparian component was removed. State Parks agreed that it was not feasible to pursue the riparian restoration element of the project (Attachment A).

As an alternative, State Parks proposed to eliminate the riparian restoration component and increase the size of the cactus scrub restoration area from six acres to 11 acres (Attachment B). After much coordination internally between OCTA, Wildlife Agency, OCCC, and State Parks staff, all parties believe that this would be the best allocation of funds for the restoration project. A timeline of the revised CHSP Restoration Project, if granted the EOC's endorsement, is included as Attachment C.

Next Steps

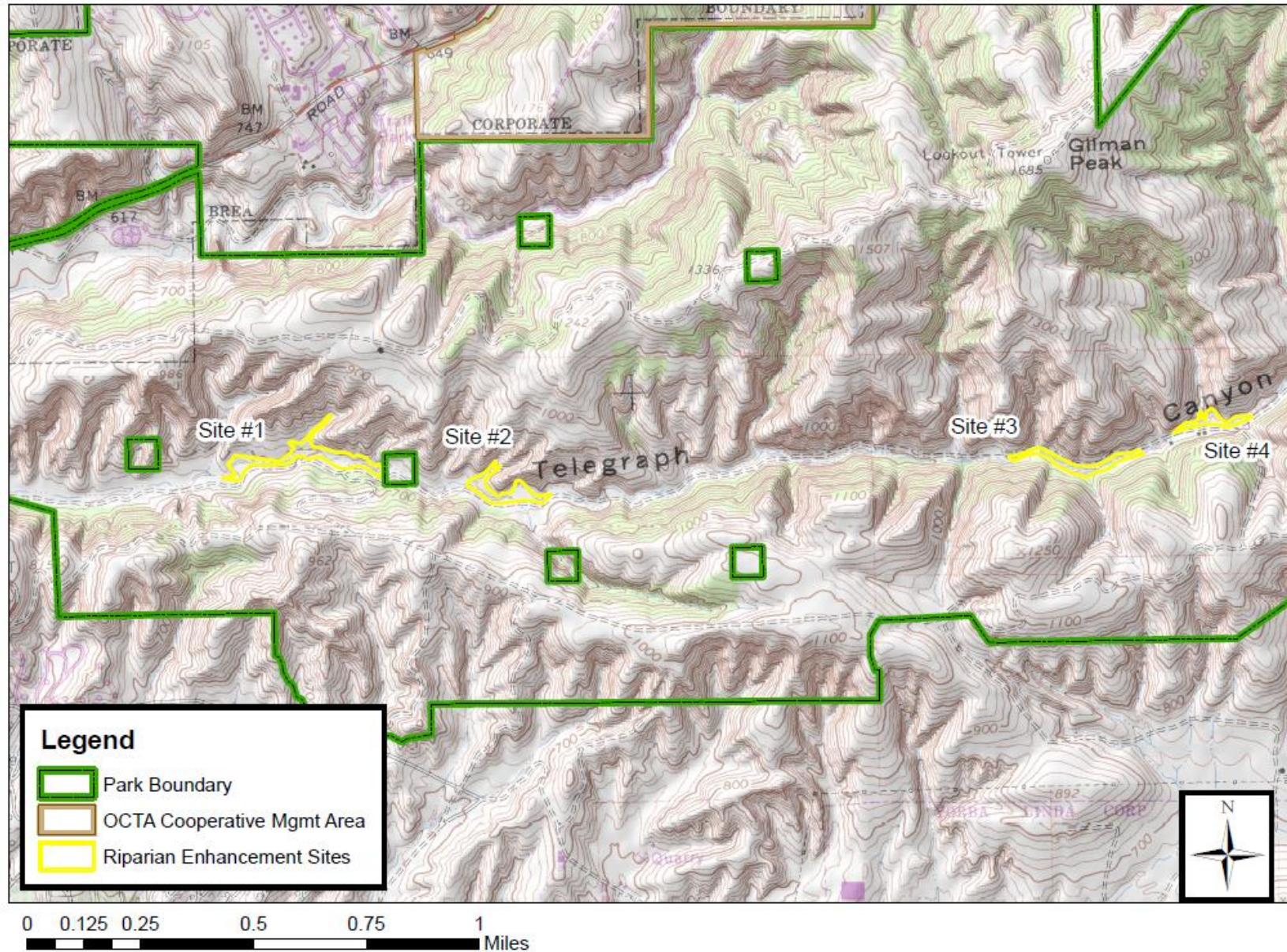
State Parks requests the EOC to endorse a change in scope to the originally endorsed Chino Hills State Park restoration project. The new project would include 11 acres of cactus scrub restoration within Chino Hills State Park (Orange County) at the original Board amount of \$193,000 (\$17,545/acre).

Attachments

- A. Chino Hills State Park Restoration Project Previous Riparian Component**
- B. Chino Hills State Park Restoration Project Revised Work Area**
- C. Chino Hills State Park Restoration Project Schedule**



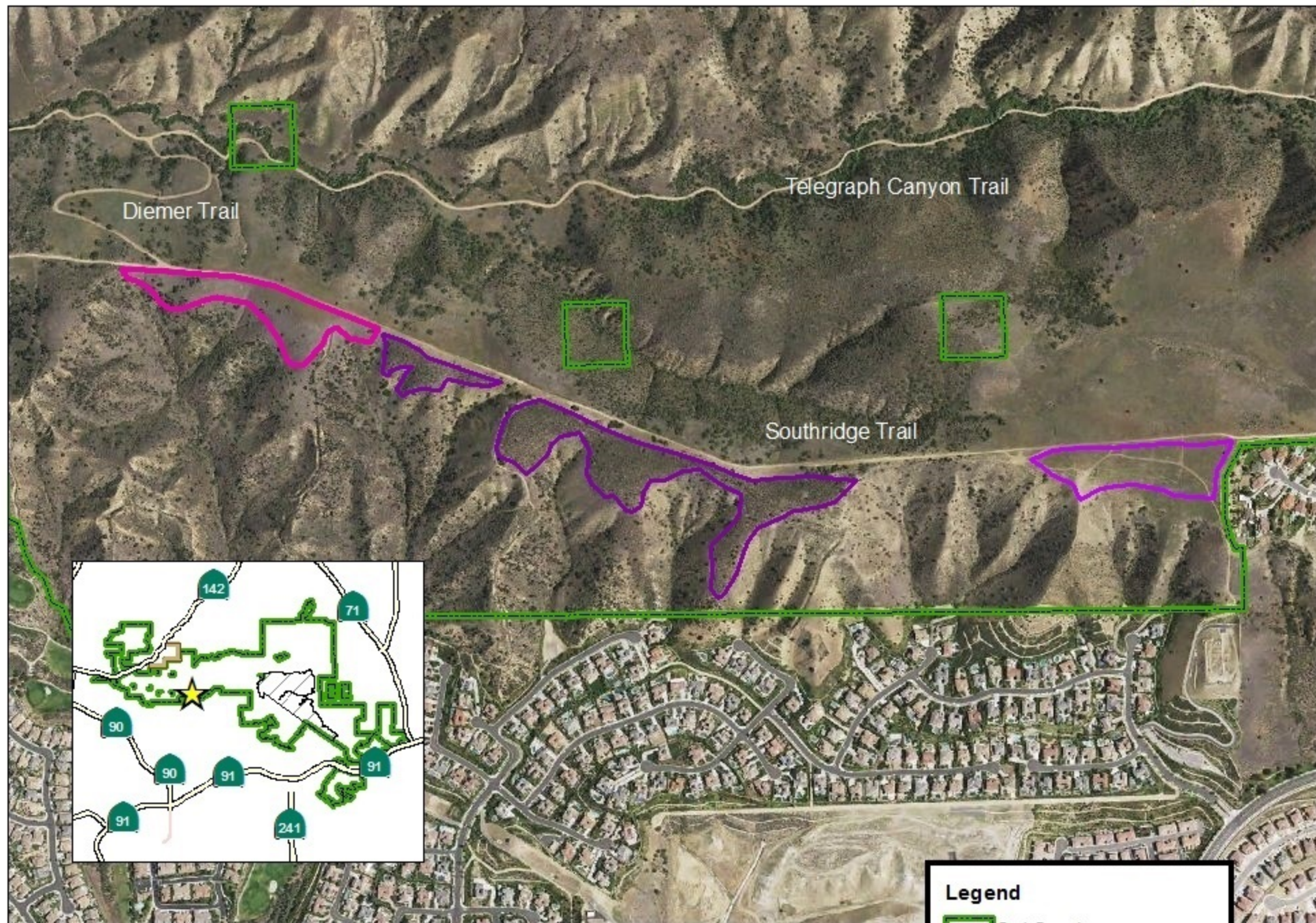
Chino Hills State Park Restoration Project Previous Riparian Component



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Chino Hills State Park Restoration Project Revised Work Area



0 375 750 1,500 2,250 3,000 Feet

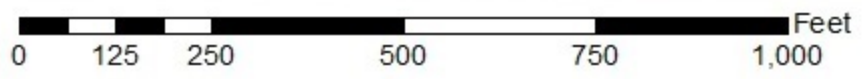
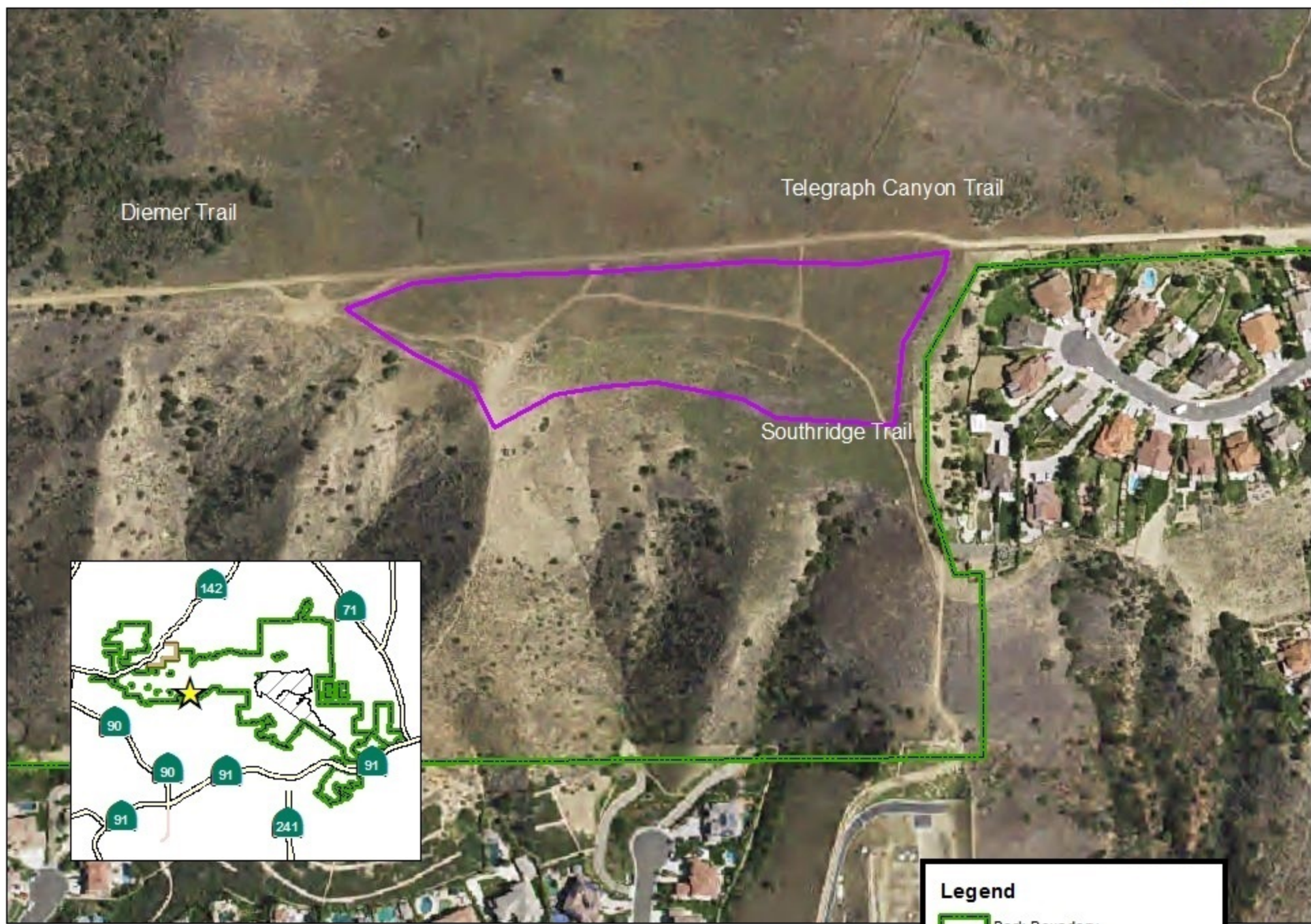
Scale = 1:9,000



Legend

- Park Boundary
- Shappell CSS (Existing)
- Cactus Scrub Restoration Site
- Proposed Additional Acreage

Chino Hills State Park Restoration Project Revised Work Area



Scale = 1:3,000



Legend

- Park Boundary
- Shappell CSS (Existing)
- Cactus Scrub Restoration Site
- Proposed Additional Acreage

Chino Hills State Park Restoration Project Schedule

Fall 2016 –

- OCTA/ Department of Parks and Recreation (DPR) contract executed for North Coal Canyon Project
- DPR scope change submission for Cactus Scrub/ Riparian Project change to all Cactus Scrub with additional acreage
- OCTA Environmental Oversight Committee and Wildlife Agency approval of scope change

Winter 2016 –

- CEQA Compliance North Coal Canyon and Cactus Scrub Projects
- OCTA/ DPR contract for Cactus Scrub Project to be executed
- DPR contract with Orange County Conservation Corps (OCCC) for both restoration projects

Spring/Fall 2017 –

- Non-ground disturbing site prep (weed control and site delineation begins on North Coal Canyon and Cactus Scrub Projects)
- Seed collection for both projects by OCCC
- establish irrigation systems
- seed application and planting of first container plants

Spring 2018 –

- Begin weed maintenance, and monitoring

All project implementation will follow protocols outlined in the approved final restoration plans.