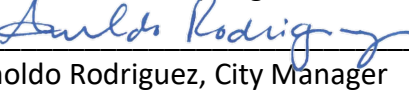


REPORT TO CITY COUNCIL

Approved by:



Keith Helmuth, City Engineer



Arnaldo Rodriguez, City Manager

Council Meeting of: December 16, 2020

Agenda Number: B-6

SUBJECT: Extension of Streambed Alteration Agreement

RECOMMENDATION:

That Council, by minute order, authorize the City Engineer to Request Extension and Execute Streambed Alteration Agreement (Agreement) with California Fish and Wildlife (CDFW) Relating to Routine Maintenance of City-owned Bridges.

SUMMARY:

An Agreement with the CDFW is required when activities occur within streams or riverbeds. The City owns and maintains six bridges within the Fresno River which fall under the jurisdiction of CDFW. In 2016, an Agreement was entered into to allow routine maintenance of these six bridges. The term of this Agreement is five years, and it expires in 2021. A renewal of the Agreement is necessary for the continued routine maintenance of the City's bridges.

DISCUSSION:

The City owns and maintains six bridges along the Fresno River. Part of the required maintenance activities of these bridges involves getting into the Fresno River streambed for thinning and removal of vegetation, removal of trash and debris and regrading of streambed soils to protect bridge footings and associated structures.

Activities within the Fresno River are regulated and permitted by the CDFW. The City entered into an Agreement with CDFW in 2016 for routine maintenance activities within the Fresno River. The Agreement term was for five years, which expires on January 21, 2021.

An extension of this Agreement is allowed by submitting a Request to Extend Streambed Alteration form and the payment of an extension fee. The extension fee is \$610.25.

FINANCIAL IMPACT:

There is no impact to the City's General Fund. The cost of the renewal fees associated with the Extension will come from available Local Transportation Funds (LTF).

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

Routine bridge maintenance not mentioned in 2025 plan. While not mentioned, appropriate maintenance of bridges in addition to other City infrastructure might be encompassed in the following Vision Statements: A well Planned City and A Safe and Healthy Environment.

ALTERNATIVES:

Should Council not approve the extension of this Agreement, the current agreement will expire. A new agreement would then need to be obtained prior to the City performing any maintenance activities within the Fresno River for our bridges.

ATTACHMENTS:

1. 2016 Streambed Alteration Agreement
2. Location of Bridges along the Fresno River

ATTACHMENT 1
Streambed Alteration Agreement

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



STREAMBED ALTERATION AGREEMENT
ROUTINE MAINTENANCE AGREEMENT
NOTIFICATION NO. 1600-2015-0112-R4
FRESNO RIVER - MADERA COUNTY

KEITH B. HELMUTH
CITY OF MADERA
205 WEST FOURTH STREET
MADERA, CALIFORNIA 93637

ROUTINE MAINTENANCE OF CITY OWNED BRIDGES (PROJECT)

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the City of Madera (referred to as Permittee), represented by Keith B. Helmuth.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW June 9, 2015, that Permittee intends to complete the Project described herein.

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

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

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

PROJECT LOCATION

The Project will occur at and up to 100 feet upstream and downstream of six (6) bridge crossings over the Fresno River through the City of Madera, Madera County, California (Appendix A).

- Granada Bridge: Fresno River at its intersection with North Granada Drive; SW ¼ of Section 14, Township 11 South, Range 17 East, USGS 7.5 Minute Quad Map Madera, MDB & M; Latitude 36°58'5.02"N, Longitude 120° 5'31.79"W.

- Schnoor Bridge: Fresno River at its intersection with North Schnoor Street; SW ¼ of Section 14, Township 11 South, Range 17 East, USGS 7.5 Minute Quad Map Madera, MDB & M; Latitude 36°58'6.56"N, Longitude 120° 4'59.93"W.
- Gateway Bridge: Fresno River at its intersection with North Gateway Drive; SW ¼ of Section 13, Township 11 South, Range 17 East, USGS 7.5 Minute Quad Map Madera, MDB & M; Latitude 36°58'7.38"N, Longitude 120° 4'5.10"W.
- "D" Street Bridge: Fresno River at its intersection with North "D" Street; SE ¼ of Section 13, Township 11 South, Range 17 East, USGS 7.5 Minute Quad Map Madera, MDB & M; Latitude 36°58'5.11"N, Longitude 120° 3'47.62"W.
- Lake Street Bridge: Fresno River at its intersection with North "D" Street; SW ¼ of Section 18, Township 11 South, Range 18 East, USGS 7.5 Minute Quad Map Madera, MDB & M; Latitude 36°58'7.73"N, Longitude 120° 3'22.43"W.
- Cleveland Avenue Bridge: Fresno River at its intersection with North "D" Street; SE ¼ of Section 18, Township 11 South, Range 18 East, USGS 7.5 Minute Quad Map Madera, MDB & M; Latitude 36°58'26.85"N Longitude 120° 2'37.94"W.

PROJECT DESCRIPTION

The Project includes routine, reoccurring maintenance activities to maintain structural integrity of Permittee owned bridges and comply with maintenance recommendations given by California Department of Transportation bridge inspectors. Authorized maintenance activities are as follows, and each primary bulleted activity represents a "maintenance project" for purposes of annual reporting and fee payment:

- Vegetation Removal:
 - Trimming or removal of grasses, other herbaceous vegetation, and woody plants (trees and shrubs) with stems or trunks of less than four (4) inches in diameter using hand tools or hand held equipment. Vegetation will be cut above the ground surface.
 - Removal of dead and downed trees from streambeds either by hand or using such equipment as a backhoe, excavator, and/or skid steer loader (bobcat).
 - Limited to 100 feet upstream or downstream from the bridge.
 - Limited to the amount of vegetation removal necessary to allow unimpeded flows under the bridge, including removal or trimming of vegetation growing between the banks of the stream and trimming of vegetation growing from above the top of the bank.
 - All work will occur during daylight hours.
 - All vegetation removal activity will take place in naturally dry areas.

- Debris or Obstruction Removal:
 - Removal of trash, flood-deposited woody debris, loose branches, and dead trees using hand tools, backhoe, skid steer loader (bobcat), and/or excavator.
 - Limited to 100 feet upstream or downstream from the bridge.
 - All work will occur during daylight hours.
 - All activity will occur under naturally dry conditions absent of flow, with the exception of removing flood-deposited woody debris from the wetted channel following a storm event, when equipment will be operated from the beyond the top of the bank and outside the wetted channel.

- Bridge Footing and Slope Protection:
 - Re-contouring and redistribution of sand, silt, and sediment in the streambed from areas with excess deposition to scoured bridge footings and/or scoured slope protection.
 - Limited to 100 feet upstream or downstream from the bridge.
 - Disturbed soils will be compacted and re-contoured to match the upstream and downstream flow lines.
 - If a sufficient volume of sediment is not available on-site, clean fill material will be sourced off-site.
 - All work will occur during daylight hours.
 - All equipment will be operated in naturally dry conditions.

All maintenance projects will be intended and proposed to avoid impacts to sensitive resources.

PROJECT IMPACTS

Project activities will result in removal and thinning of vegetation and disturbance to streambeds through the redistribution of accumulated sediment and debris, structure repair activities, and repair of slope protection. This Agreement is intended to avoid and minimize adverse impacts to the special status fish and wildlife resources that could occupy the Project areas and the adjacent habitats. Absent implementation of the Protective Measures required by this Agreement, the following species and their habitats could be substantially impacted: the Federally endangered valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), the State threatened species Swainson's hawk (*Buteo swainsoni*), and the State species of special concern western spadefoot (*Spea hammondi*), western pond turtle (*Actinemys marmorata*), and American badger (*Taxidea taxus*), as well other as birds, mammals, fish, reptiles, amphibians, invertebrates, and plants that compose the local ecosystem.

Project activities have the potential to result in adverse effects to fish and wildlife resources through the following project impacts: Sedimentation and erosion resulting from excavating material and structures from stream channels and creating new slopes;

sedimentation could result in material being carried by subsequent flows and carried downstream, relocated, and re-deposited in areas used by fish and wildlife; burying, uncovering, or crushing animals using bed sediments or erosion control measures, including reptiles, small mammals, and ground nesting birds; removal of vegetation that provides nesting, foraging, or cover habitat for birds and other wildlife; dust creation from Project operations could settle on plant material and affect processes such as respiration, photosynthesis, pollination, and seed set; noise or vibration impacts that disturb bird nesting activity and result in nest abandonment and failure, including death of chicks.

PROTECTIVE MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make this Agreement, any extensions and amendments to this Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at each Project site when Project activity is occurring and shall be presented to CDFW personnel or personnel from another State, Federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of this Agreement and any extensions and amendments to this Agreement to all persons who will be working on the Project at the Project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a Protective Measure in this Agreement might conflict with a provision imposed on the Project by another local, State, or Federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the Project site at any time to verify compliance with this Agreement.
- 1.5 Legal Obligations. This Agreement does not exempt Permittee from complying with all other applicable local, State, and Federal law, or other legal obligations.
- 1.6 Unauthorized Take. This Agreement does not authorize the "take" (defined in Fish and Game Code Section 86 as to hunt, pursue, catch, capture, or kill; or attempt to hunt, pursue, catch, capture, or kill) of State- or Federally-listed threatened or endangered species. Any such take shall require separate permitting as may be required.
- 1.7 Property Not Owned by Permittee. To the extent that the Protective Measures of this Agreement provide for activities that require Permittee to enter on another

owner's property, they are agreed to with the understanding that Permittee possesses the legal right to so enter.

- 1.8 Training. Prior to starting each activity within the stream, Permittee shall provide training from a qualified individual to all employees, contractors, and visitors who will be present during Project activities regarding the contents of this Agreement, the resources at stake, and the legal consequences of non-compliance.
- 1.9 Project Consistency with Agreement. Permittee shall acquire authorization from CDFW prior to commencing each maintenance project. Permittee shall submit a Verification Request Form (VRF) (Appendix B) to CDFW at least 14 days prior to beginning each maintenance activity. The VRF shall be sent by mail and may also be submitted electronically by email to R4LSA@wildlife.ca.gov, with reference to Agreement 1600-2015-0112-R4. CDFW shall determine whether the maintenance activity proposed in the VRF is consistent with this Agreement. Work shall not begin until Permittee has obtained written approval from CDFW for the activity described in the VRF.
- (a) In each VRF, Permittee shall include sufficient detail to describe the maintenance activity and to demonstrate that it is consistent with the Project Description and each Protective Measure of this Agreement.
 - (b) Each VRF shall describe one maintenance activity proposed at one location, identified according to the bridge name and location as listed in this Agreement.
 - (c) If a VRF does not include sufficient detail, CDFW may request more information from Permittee within 14 days of receiving the VRF. CDFW shall request additional information, if needed, within 14 days of receipt of any VRF or of additional information to support a VRF. CDFW may also request or provide additional information to complete a VRF if it is unable to concur that a Project site is outside the range of a listed species (see Avoidance and Minimization Measures).
 - (d) CDFW shall notify Permittee in writing when the VRF is deemed complete and consistent with this Agreement. If CDFW does not make a determination regarding a VRF within 14 days of its receipt (written reply provided by email and/or letter correspondence postmarked by the end of the 14th day), the VRF shall be deemed consistent and approved.
 - (e) If the project described in a VRF is not consistent with this Agreement because CDFW has determined that the activity proposed does not conform to a description of a maintenance project in the Project Description or does not avoid impacts to listed species according to the Protective Measures of this Agreement, CDFW shall notify Permittee in writing that the VRF is denied (written reply provided by email and/or letter correspondence postmarked by the end of the 14th day following receipt of a VRF or of additional information to support a VRF).

2. Avoidance and Minimization Measures

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

- 2.1 Work Hours. All work activities shall be confined to daylight hours. For purposes of this Agreement, "daylight hours" are defined as that daytime period between sunrise and sunset.
- 2.2 Flagging/Fencing. Prior to any activity within a stream, Permittee shall identify the limits of the required access routes and encroachment. These "work area" limits shall be identified with brightly-colored flagging or fencing, and shall not exceed 100 feet upstream or downstream from the culvert or bridge where maintenance projects will occur. Work completed under this Agreement shall be limited to this defined area only and flagging/fencing shall be maintained in good repair for the duration of the Project. All CDFW jurisdictional areas beyond the identified work area limits shall be considered Environmentally Sensitive Areas (ESA) and shall not be disturbed.
- 2.3 Listed and Other Special Status Species.
 - (a) This Agreement does not authorize take of any State- or Federally-listed threatened or endangered, or fully-protected species. Liability for any take of such listed species remains the responsibility of Permittee for the duration of the Project. Any unauthorized take of such listed species may result in prosecution and nullify this Agreement.
 - (b) Permittee affirms that no take of listed species shall occur as a result of this Project and shall take prudent measures to ensure that all take is avoided. Permittee acknowledges and fully understands that it does not have State incidental take authority. Permittee also confirms that the maintenance projects that will be authorized by this Agreement are intended to avoid and minimize impacts to listed species in order to avoid the need to acquire incidental take permits. If any State- or Federally-listed threatened or endangered species occur within proposed work areas or could be impacted by the work proposed, and thus taken as a result of Project activities, such maintenance projects shall not be authorized by this Agreement; Permittee shall either not submit a VRF or shall rescind a VRF if avoidance per the Protective Measures of this Agreement for State or Federal listed species is infeasible, and Permittee shall provide separate notification to CDFW pursuant to FGC 1602.
 - (c) Permittee shall immediately notify CDFW of the discovery of any such threatened or endangered species prior to and during Project activities.
 - (d) Pre-activity surveys for sensitive status species shall be conducted by a qualified biologist within 30 days prior to the proposed commencement of each Project maintenance activity. Survey results shall be included with the

VRF to inform the necessary avoidance and minimization measures at each site. Surveys shall be conducted on the Project site and all access routes to avoid and minimize incidental take, confirm previous observations, identify any areas potentially occupied by listed or sensitive species, and clearly mark all resources to be avoided by Project activities. If any State- or Federally-listed threatened or endangered animal species are found or could be impacted by the work proposed, Permittee shall notify CDFW of the discovery prior to commencement of any activity. An amended Agreement and/or a State Incidental Take Permit may be necessary and a new CEQA analysis may need to be conducted, before work can begin.

- (e) Swainson's Hawk. The VRF submitted for each maintenance project shall describe the habitat and identify whether the Project location includes or is within 0.5 mile of nesting habitat for this species. If a site is within 0.5 mile of nesting habitat, CDFW shall only approve the VRF if the maintenance activity will be completed entirely outside of the nesting season, or if the VRF includes surveys results with a negative finding and CDFW approves the following survey results: project sites within nesting habitat and 0.5 mile of nesting habitat for the species shall be surveyed following the survey methodology developed by the Swainson's Hawk Technical Advisory Committee (http://www.dfg.ca.gov/wildlife/nongame/docs/swain_proto.pdf) prior to commencing maintenance activities during this species' nesting season (March 1 through August 31).
- (f) Valley Elderberry Longhorn Beetle: The VRF submitted for each maintenance project shall identify whether elderberry bushes (*Sambucus mexicana*) are present within the work area or a 100-foot buffer. No elderberry shrubs shall be trimmed or removed without appropriate regulatory agency approval. Ground-disturbing Project activity shall avoid elderberry shrubs by 100 feet. If this buffer cannot be maintained or elderberry bushes will be impacted, then Permittee shall provide CDFW with a Biological Opinion or other documentation from the United States Fish and Wildlife Service (USFWS) authorizing Permittee to transplant, remove, or otherwise impact elderberry bushes that are considered habitat for the Federally-threatened valley elderberry longhorn beetle.
- (g) Western Spadefoot and Western Pond Turtle. All individuals of these species discovered at Project work areas immediately prior to or during Project activities shall be allowed to move out of the work area of their own volition. If this is not feasible, they shall be captured by a qualified biologist and relocated out of harm's way to the nearest suitable habitat at least 100 feet from the Project site.
- (h) American Badger. Any American badger detected within the Project work area during Project activities shall be allowed to move out of the work area of its own volition. If American badger is denning on or immediately adjacent to a Project work area, Permittee shall consult with CDFW to determine whether

the animal(s) may be evicted from the den. Eviction of badgers will not be approved by CDFW unless it is confirmed that no dependent young are present.

2.4 Fish and Wildlife.

- (a) If any fish or wildlife is encountered during maintenance project implementation, said fish or wildlife shall be allowed to leave the work area unharmed.
- (b) Pursuant to FGC Sections 3503 and 3503.5, it is unlawful to take, possess, or destroy the nest or eggs of any bird or bird-of-prey. To protect nesting birds, no Project maintenance activity shall be completed from February 15 through August 31 unless the following surveys are completed by a qualified biologist within 30 days prior to initiating the Project activity covered by this Agreement.

Separate avian survey and avoidance requirements are listed above for Swainson's hawk (see Avoidance and Minimization Measures 2.3(e)).

Raptors: Survey for nesting activity of raptors within a 500-foot radius of the Project site. Surveys shall be conducted at appropriate nesting times and concentrate on mature trees. If any active nests are observed, these nests and nest trees shall be designated an ESA and protected by a 500-foot radius until the young have fledged and are no longer reliant on the nest tree or parental care.

Other Avian Species: Survey for nesting activity within a 250-foot radius of the Project boundaries. If any active nests are observed, these nests and nest trees shall be designated an ESA and protected with a minimum 250-foot buffer until the young have fledged and are no longer reliant on the nest tree or parental care.

CDFW may consider variances from these buffers when there is a compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography.

2.5 Vegetation.

- (a) No trees or shrubs measuring four (4) inches or greater in diameter at breast height shall be removed or have the trunk or stems cut as a result of any maintenance project activity. No trees or shrubs of any size growing above the top of the bank shall be removed.
- (b) Vegetation removal shall not exceed the minimum necessary to complete operations and shall only occur within the defined work area.

- (c) Grasses and other herbaceous vegetation shall only be removed from within the area of the main channel and up to the top of the bank. Additional grass and herbaceous vegetation above the top of the bank may be trimmed as needed to remove parts of plants that extend into the area of the main channel when it is full, but those plants rooted above the top of the bank shall not be entirely removed.
- (d) All disturbed invasive, exotic plant species that are disturbed during Project activity shall be removed from the Project site. Any Vinca, Cape or German ivy, Castor bean, Arundo, or other exotic plant species shall be appropriately disposed of in a manner that avoids the risk of introduction or spreading of exotic species in or around the Project work area. Invasive species shall not be used in mulching, composting, or otherwise placed in or around the Project work areas. Permittee shall not stockpile cut invasive plant material within any stream at any time.
- (e) Heavy equipment and other machinery shall be inspected for the presence of undesirable plant species prior to on-site use and cleaned to reduce the risk of introducing exotic plant species into the Project work areas.
- (f) Permittee shall wash and dry all equipment (hand tools, mechanical devices) prior to entering each Project work area, to prevent the movement of aquatic and terrestrial invasive plant and animal species, fungi, their propagules, and other biotic agents.
- (g) No herbicides shall be used to remove vegetation from the sites of maintenance projects.

2.6 Vehicles.

- (a) Vehicles shall only be operated in the work area during naturally dry conditions or as otherwise authorized by this Agreement.
- (b) Vehicle access to the stream banks shall be limited to predetermined ingress and egress corridors on existing roads. All other jurisdictional areas adjacent to the work area shall be considered an ESA and shall remain off-limits to vehicles and equipment. The VRF submitted for each maintenance project shall identify the access routes for all vehicles and heavy equipment.
- (c) Any equipment or vehicles driven and/or operated adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic and terrestrial life.
- (d) Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of stream and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream, shall be positioned over drip-pans. Vehicles shall be moved away from the stream prior to refueling and lubrication.

2.7 Fill/Spoil.

- (a) Spoil storage sites shall not be located within the stream, or where spoil will be washed into the stream. Rock, gravel, and/or other materials shall not be imported into or moved within the bed or banks of the stream, except as otherwise addressed in this Agreement.
- (b) Fill shall be limited to the minimal amount necessary to accomplish the agreed activities.

2.8 Erosion.

- (a) No work shall occur during or within 24 hours following significant rainfall events, defined as $\frac{1}{4}$ inch or more of rain in a 24-hour period.
- (b) Maintenance projects shall be implemented in naturally dry areas, except as otherwise authorized in this Agreement.
- (c) All disturbed soils within Project work areas shall be stabilized to reduce erosion potential, both during and following Project activity. Temporary erosion control devices, such as straw bales, silt fencing, and sand bags, may be used, as appropriate, to prevent siltation of the stream. To minimize the risk of ensnaring and strangling wildlife, coir rolls, erosion control mats or blankets, straw or fiber wattles, or similar erosion control products shall be composed entirely of natural-fiber, biodegradable materials. Permittee shall not use "photodegradable" or other plastic erosion control materials.
- (d) Following the removal of vegetation, dead tree limbs, or debris from the stream bed, Permittee shall contour and compact the soils to match the prevailing slopes upstream and downstream of the area impacted. No pits or ruts in the stream bed shall remain following the removal of materials.

2.9 Pollution.

- (a) Permittee and all contractors shall be subject to the water pollution regulations found in Fish and Game Code Sections 5650 and 12015.
- (b) Raw cement, concrete or washings thereof, asphalt, drilling fluids or lubricants, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to fish or wildlife resulting from or disturbed by Project-related activities, shall be prevented from contaminating the soil and/or entering the "Waters of the State".
- (c) The cleanup of all spilled materials shall begin immediately. CDFW shall be notified immediately by Permittee of any spills and shall be consulted regarding cleanup procedures.

- (d) All Project-generated debris, building materials, and rubbish shall be removed from the stream and from areas where such materials could be washed into the stream.

3. Compensatory Measures

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

3.1 Revegetation and Restoration.

- (a) If a Maintenance Project causes any exposed slopes or exposed areas on stream banks, these areas shall be seeded (with weed-free straw or mulch) with a blend of a minimum of three (3) locally native grass species. One (1) or two (2) sterile non-native perennial grass species may be added to the seed mix provided that amount does not exceed 25 percent of the total seed mix by count. Locally native wildflower and/or shrub seeds may also be included in the seed mix. The seeding shall be completed as soon as possible, but no later than November 15 of the year the Project activity ends or as otherwise approved in advance by CDFW. A seed mixture shall be submitted to CDFW for approval with the VRF. At the discretion of CDFW, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.
- (b) Where suitable vegetation cannot be reasonably expected to become established, non-erodible materials shall be used for such stabilization. Any installation of non-erodible materials not described in the original Project description shall be coordinated with CDFW. Coordination may include the negotiation of additional Protective Measures for this activity.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Obligations of the Permittee.

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

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

- A Verification Request Form for each maintenance project, including all specifically required information in the Protective Measures of this Agreement, submitted to CDFW for written approval at least 14 days prior to the proposed start of work (Administrative Measure 1.9). Protective Measures to be addressed include:
 - Avoidance and Minimization Measures 2.3(d), (e), and (f)
 - Avoidance and Minimization Measures 2.6(b)
 - Compensatory Measure 3.1(a)
- Results of surveys for nesting birds, if any work is scheduled during the avian nesting season, submitted to CDFW at least one (1) week prior to the start of each maintenance activity (Avoidance and Minimization Measure 2.4(b)).
- Annual Status Report: An Annual Status Report and associated fees (see Fees, below) shall be submitted to CDFW by December 31 of each calendar year that this Agreement is valid. The Annual Status Report shall include the following information:
 - A summary of all maintenance activities that were completed during the previous calendar year, including the dates of work. If the number of maintenance activities does not match the number of VRF forms approved during the calendar year, the report shall provide an explanation.
 - A summary of Protective Measures implemented for each maintenance project.
 - Photo documentation consisting of before, during, and after photos of each Project area where a maintenance project was completed.
 - If no work was conducted during the previous calendar year, an Annual Status Report will be submitted to CDFW indicating that status.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other. Permittee shall submit all schedules, survey results, reports, and/or plans required by this Agreement in hard copy to the address below; Permittee may also submit those materials electronically by email to R4LSA@wildlife.ca.gov.

To Permittee:

Keith B. Helmuth
City of Madera
205 West Fourth Street
Madera, California 93637
Phone: (559) 661-5418
khelmuth@cityofmadera.com

To CDFW:

California Department of Fish and Wildlife
Region 4 – Central Region
1234 East Shaw Avenue
Fresno, California 93710
Attn: Lake and Streambed Alteration Program – Carrie Swanberg
Notification No.1600-2015-0112-R4
Phone: (559) 243-4014 extension 246
Fax: (559) 243-4020
carrie.swanberg@wildlife.ca.gov

FEES

California Code of Regulations, Title 14 (CCR 14, Section 699.5) establishes fees for Projects subject to Fish and Game Code 1602. Fees shall be assessed pursuant to FGC§ 1609 for Project activities performed under this Agreement.

A lump sum fee shall be paid to CDFW by December 31 of each calendar year based on the total number of maintenance projects undertaken for that year (which shall be equal to the number of maintenance projects indicated in the Annual Report submitted by December 31 of each year). Fees shall be assessed based upon the fee schedule that is prevailing at the time of payment.

LIABILITY

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

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

SUSPENSION AND REVOCATION

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

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

ENFORCEMENT

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

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

OTHER LEGAL OBLIGATIONS

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

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

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

AMENDMENT

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

Permittee may amend this Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's fee schedule at the time of the request (see Cal. Code Regs., Title 14, § 699.5).

TRANSFER AND ASSIGNMENT

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

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

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one (1) extension of this Agreement, provided the request is made prior to the expiration of this Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's fee schedule at the time of the request (see Cal. Code Regs., Title 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

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

EFFECTIVE DATE

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

TERM

This Agreement shall remain in effect for five (5) years beginning on the date signed by CDFW, unless it is terminated or extended before then. All provisions in this Agreement shall remain in force throughout its term. Permittee shall remain responsible for

implementing any provisions specified herein to protect fish and wildlife resources after this Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

In approving this Agreement, CDFW is independently required to assess the applicability of CEQA. The features of this Agreement shall be considered as part of the overall Project description. If CDFW determines that CEQA review is required, as a CEQA Lead Agency CDFW shall be responsible for preparing and circulating the appropriate document (Negative Declaration/Environmental Impact Report) and will make findings as warranted and submit a Notice of Determination to the State Clearinghouse.

Alternatively, CDFW may determine that the Project is exempt from CEQA, in which case a Notice of Exemption will be filed.

EXHIBITS

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

Appendix A. Maps – City of Madera Owned Bridges
Appendix B. Verification Request Form

AUTHORITY

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

Permittee may amend this Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's fee schedule at the time of the request (see Cal. Code Regs., Title 14, § 699.5).

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AUTHORIZATION

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

CONCURRENCE

The undersigned accepts and agrees to comply with all the provisions of this Agreement.

FOR THE CITY OF MADERA



Keith B. Helmuth

1-19-16

Date

FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE



Julie A. Vance

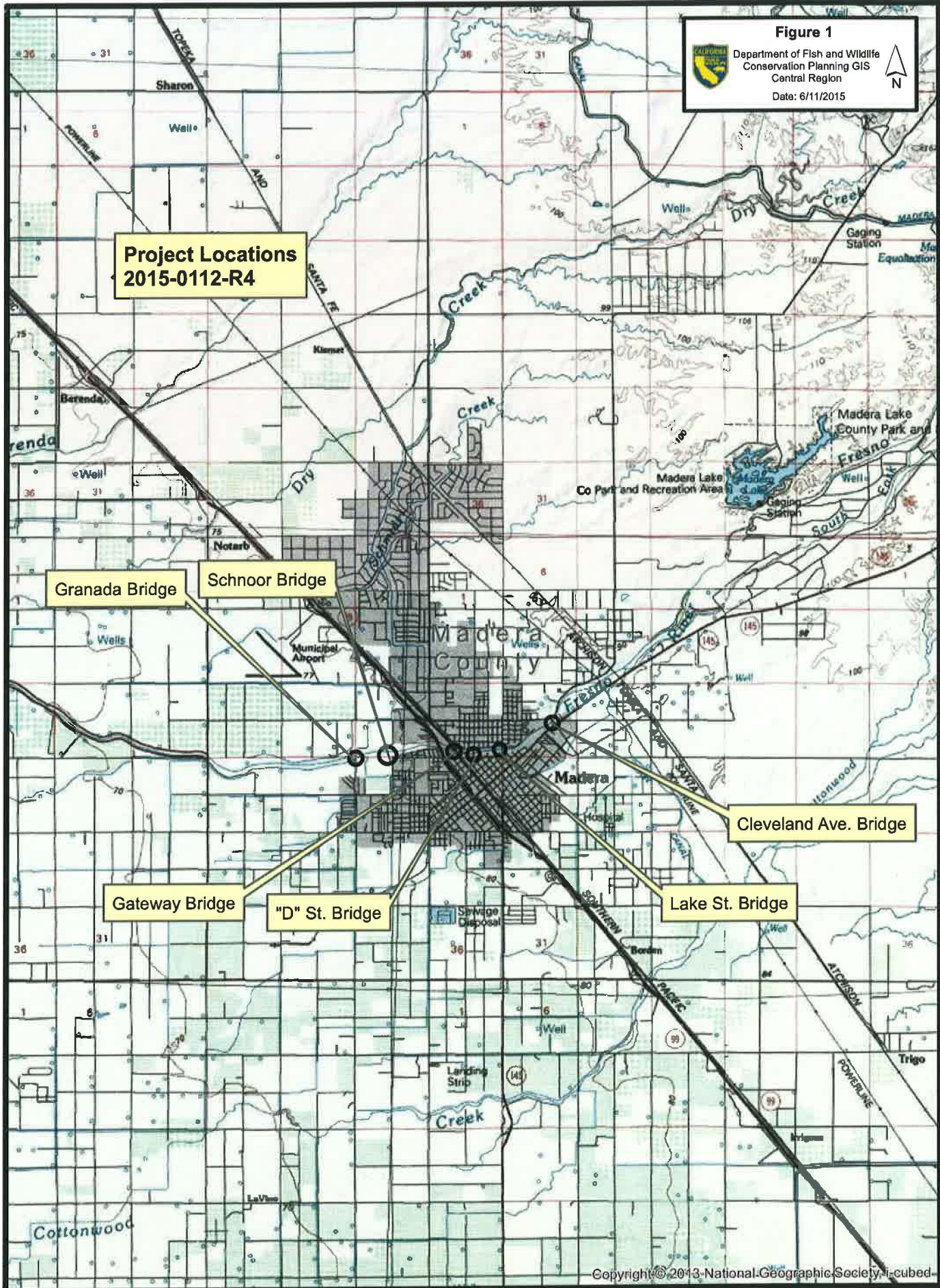
Regional Manager – Central Region

1/21/14

Date

Appendix A

Figure 1
 Department of Fish and Wildlife
 Conservation Planning GIS
 Central Region
 Date: 6/11/2015



0 1 2 Miles

Appendix B

FOR DEPARTMENT USE ONLY	
Date Received	VRF No.
	1600-2015-0112- -R4

California Department of Fish and Wildlife
VERIFICATION REQUEST FORM (VRF)
 Routine Maintenance Agreement (RMA)
 No. 1600-2015-0112-R4
 City of Madera – Maintenance of City Owned Bridges

Maintenance Project Term	
Project Start Date:	Project End Date:

Location of Work:
Bridge Name:
Location including Latitude/Longitude (in decimal degrees):

Maintenance Activities	
<p><u>Type of Maintenance Project (check one)</u></p> <p><input type="checkbox"/> Tree Removal; Other Vegetation Removal; Tree or Other Vegetation Trimming</p> <p><input type="checkbox"/> Debris or Obstruction Removal</p> <p><input type="checkbox"/> Bridge Footing and/or Slope Protection Repair Area and Volume to be filled: _____ square feet _____ cubic yards</p>	<p><u>Equipment (Check all that apply)</u></p> <p><input type="checkbox"/> Chainsaw / Clippers</p> <p><input type="checkbox"/> Backhoe</p> <p><input type="checkbox"/> Excavator</p> <p><input type="checkbox"/> Front loader</p> <p><input type="checkbox"/> Dump truck</p> <p><input type="checkbox"/> Bobcat</p> <p><input type="checkbox"/> Other:</p>

Description of Proposed Maintenance Work: Demonstrate concurrence with Project Description of the RMA (Attach extra pages as needed). For all project work include a map or description of vehicle and equipment access routes.

For vegetation removal, include species, number, and size(s) of trees and shrubs to be removed; species/type and area of other vegetation to be removed; and description of trimming. Include methods to be used.

For debris or obstruction removal, include type of obstruction and methods to be used for removal.

For bridge footing and slope protection activities include the nature of repair and methods to be used. Include soil cut and fill volumes and source of fill material. Include photo of feature needing repair and source of fill material (if on-site).

A large empty rectangular box with a thin black border, occupying the lower two-thirds of the page. It is intended for the user to provide detailed information regarding the proposed maintenance work as outlined in the instructions above.

Compliance With RMA Protective Measures: For all maintenance projects, include detail demonstrating concurrence with the Protective Measures of the RMA (Attach extra pages as needed). Include all species-related avoidance measures.

[Empty space for compliance details]

Permittee Signature of VRF

I hereby certify that to the best of my knowledge the information in this VRF is true and correct and that I am authorized to sign this VRF as, or on behalf of, the applicant. I understand that if any information in this VRF is found to be untrue or incorrect, CDFW may suspend processing this VRF or suspend or revoke the RMA. I understand also that if any information in this VRF is found to be untrue or incorrect and the project described in this VRF has already begun, Permittee may be subject to civil or criminal prosecution. I understand that this VRF applies only to the maintenance project described herein and that Permittee may be subject to civil or criminal prosecution for undertaking any maintenance project not described herein unless CDFW has been separately notified of that project in a VRF or otherwise in accordance with Fish and Game Code section 1602.

Signature of Permittee's Authorized Employee Representative

Date

Print Name

Title

ATTACHMENT 2

Location of Bridges along the Fresno River

EXHIBIT "A"



LOCATION MAP
CITY OF MADERA BRIDGES ALONG THE FRESNO RIVER
PURPOSE: STREAMBED ALTERATION PERMIT/AGREEMENT - BRIDGE ROUTINE MAINTENANCE ACTIVITIES