CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER No. R2-2026-00XX
WASTE DISCHARGE REQUIREMENTS AND CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION for:

CALIFORNIA DEPARTMENT OF TRANSPORTATION

State Route 37/121 (SR 37/121) Intersection and Tolay Creek Bridge Replacement Project, Sonoma County

The California Regional Water Quality Control Board, San Francisco Bay Region, hereinafter the Water Board, finds that:

1. This Order constitutes Waste Discharge Requirements (WDRs) under Water Code section 13263 and the Clean Water Act section 401 water quality certification (Certification) for the California Department of Transportation (Department) State Route 37/121 (SR 37/121) Intersection and Tolay Creek Bridge Replacement Project (Project).

2. The Department has applied to the Water Board for authorization to discharge to widen the SR 37/121 intersection and replace the Tolay Creek Bridge on SR 37 (Project) from Post Mile 2.9 to Post Mile 4.9 (Latitude 38.151010; Longitude -122.449395), in unincorporated Sonoma County. The Project consists of the following:

    a. Improving traffic congestion at the SR 37/121 intersection by widening SR 37 and reconfiguring the intersection.

    b. Replacing the existing Tolay Creek Bridge with a longer and wider bridge to improve tidal exchange at the mouth of Tolay Creek to accommodate future watershed restoration efforts.

    c. Constructing retaining walls and installing rock slope protection (RSP) to support the roadway widening.

    d. Modifying drainage systems by extending or replacing existing cross culverts, headwalls, wingwalls, culvert crossings at cross-drives, median drainage systems, RSP, and roadside ditches.

    e. Constructing maintenance vehicle pullouts.

3. The Project will reconfigure the SR 37/121 intersection by widening the SR 121 left -turn-only lanes from two lanes to three lanes, which would require adding a third eastbound auxiliary lane to SR 37. Eastbound SR 37 will be widened to accommodate three lanes of travel that would taper over the one-mile lane drop to one lane. Westbound SR 37 will also be widened from one travel lane to two, starting 1,500 feet east of Tolay Creek Bridge, to accommodate the second lane of travel.

4. The Project will replace the existing 40-foot-wide and 60-foot-long single-span Tolay Creek Bridge with a 92-foot-wide and 375-foot-long concrete bridge. The new bridge will be supported by five concrete bents and two concrete abutments, with piles supporting each of these elements cast in drilled holes with steel casings from the existing ground.

The existing bridge will be removed in stages using excavators, cranes, dump trucks, welding torches, and hand tools. Replacement of the existing Tolay Creek Bridge with a longer structure will result in both near-term and long-term ecological benefits to the tidal baylands in the bridge vicinity. The existing bridge constrains tidal exchange of water, sediment, and estuarine food web components between the baylands north and south of the bridge. In the near-term, bridge replacement will improve tidal exchange and the resulting ecological functions of these habitats. In the long-term, bridge replacement will facilitate implementation of the Sonoma Creek Baylands Restoration Project, which will restore approximately 6,000 acres of diked baylands along the lower reaches of Tolay and Sonoma Creeks to tidal action.

5. The Project will also remove part of the existing earthen fill below and adjacent to the existing bridge approach on the eastern side as part of the bridge replacement. The compacted fill material will be removed to native bay mud to facilitate the planned near--term and long-term marsh restoration on site and upstream from the site.

6. Retaining walls and embankment confinement systems (ECS) will be constructed to support the roadway at various locations within the project area. Retaining walls and ECS are located west of the Tolay Creek Bridge, on the south side of the highway. Retaining walls will also be constructed on the east side of the Tolay Creek Bridge to support the fill necessary to elevate the roadway from the eastern approach to the new bridge to Tubbs Island. ECS are proposed to support the roadway prism along the outside shoulder of the westbound and eastbound roadways where retaining walls are not proposed. ECS will consist of gabions filled with either rock or lightweight aggregate and will be constructed at a 1:1 slope. Retaining walls and ECS on both the north and south sides of the highway, within Tolay Lagoon, will be protected by rock slope protection (RSP), with an underlying RSP polymer fabric placed on the outer-facing side of the retaining walls at a minimum slope of 2:1. The RSP footprint will be the minimum amount necessary. Accordingly, the RSP footprint will be limited to 3-foot by 4-foot pads at each outfall to dissipate flows. The RSP will be installed using an excavator from the road shoulder.

7. The Department is evaluating the feasibility of constructing marsh mounds in Tolay Lagoon along the south side of the roadway using excavated earthen materials from the Tolay Creek bridge replacement. Marsh mounds will support marsh gumplant (*Grindelia stricta var. Angustifolia)* which special status marsh species such as salt marsh harvest mouse (*Reithrodontomys raviventris*) and other small mammals can use as refuge during high tides.

8. The Department is conducting soil sampling and analysis to assess the quality of soil to be excavated from the Tolay Creek channel and the potential reuse options for excavated earthen materials, including creating marsh mounds and wetlands. The soil analytical results will be compared to screening criteria based on action goals for cleanup of residual contamination at the Hamilton Army Airfield (Hamilton Action Goals).

9. To allow for bridge replacement in dry conditions, the Project will install a temporary creek diversion system in the Tolay Creek channel that includes coffer dams placed downstream and upstream of the existing bridge, along with a temporary pipe system to divert flows through the channel during construction. The temporary creek diversion

system will be implemented for up to two dry-season work windows. The temporary creek diversion system elements (bypass pipes, steel sheet piles) will be removed from within the channel at the conclusion of the first dry-season window and reinstalled at the outset of the second. Temporary sheet piles will be retained in place adjacent to the channel throughout the wet season to keep other parts of the project area dry and allow work to continue in winter. To facilitate construction of the retaining wall east of the Tolay Creek Bridge abutment, Caltrans will install a temporary containment system within Tolay Lagoon, outside the southern edge of the SR 37 roadway. The containment system will consist of sheet piles and be dewatered. Sheet piles will be retained in place throughout the wet season to keep the project area dry and allow work to continue in winter. A debris containment system will be installed and implemented during the bridge demolition process to prevent construction-related materials from discharging into the creek.

10. The Project site has waters of the State subject to regulation by the Water Board. The Department is pursuing a Preliminary Jurisdictional Determination from the U.S. Army Corps of Engineers (Corps) for the site.

11. On September 8, 2025, the Department submitted a Report of Waste Discharge to the Water Board pursuant to Water Code section 13260. The Department submitted supplemental information for the Report of Waste Discharge, and the Water Board deemed the application complete on November 7, 2025.

12. The Department has submitted an alternatives analysis showing that the Project avoids and minimizes wetland impacts to the extent practicable, as the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge and Fill Procedures) and Basin Plan require. The Water Board concurs with the conclusions in the analysis.

13. The Project will temporarily impact 3.31 acres of waters of the State due to installation of temporary creek diversion systems and establishment of construction access.

14. Project Construction will permanently impact the following quantities of waters of the State: 0.02 acres of woodland riparian, 0.17 acres of freshwater emergent wetland, 0.14 acres of forested wetland, 0.01 acres of seasonal wetland, 0.94 acres of tidal marsh, and 0.86 acres of roadside vegetated drainage ditch. The permanent impacts include a total permanent fill of 0.98 acres and functional degradation of 1.16 acres of waters of the State. However, replacement of the Tolay Creek bridge with a longer bridge will restore 1.13 acres of tidal channel and adjacent wetlands by removing the existing earthen fill below and adjacent to the bridge. Replacing the bridge with a longer bridge will also enhance habitat upstream in the Tolay Creek watershed and downstream in San Pablo Bay by improving tidal exchange of water, sediment and estuarine food web components and by facilitating marsh restoration projects north of SR 37.

15. The Department will restore 3.31 acres of temporarily impacted wetlands and waters to their pre-project or improved conditions, immediately following Project construction. The design of the restoration areas, as well as the monitoring and reporting plan, are described in the *Draft Restoration and Monitoring Plan for the SR 37/SR 121 Intersection and Tolay Creek Bridge Replacement Project*, submitted on October 10, 2025. All temporarily disturbed areas will be re-vegetated using only native plant species. The temporarily disturbed seasonal wetland will be revegetated using a native wetland seed mix. This Order requires the Department to monitor the onsite wetland and riparian restoration for a minimum of five years (riparian tree plantings shall be monitored for a minimum of ten years, or until the performance criteria are attained). Restored roadside vegetated ditches will be monitored for a minimum of three years.

16. The Project will result in a net increase in acres and functions of waters of the State; thereby, obviating the need for compensatory mitigation. A net increase of 0.15 acres of waters of the state will occur because replacing the Tolay Creek bridge with a longer bridge and removing existing earthen fill below and adjacent to the bridge will restore a tidal channel and adjacent wetlands. Furthermore, replacing the bridge with a longer bridge will also enhance habitat upstream in the Toal Creek watershed and downstream in San Pablo Bay by increasing tidal exchange of water, sediment and estuarine food web components and facilitating marsh restoration projects north of SR 37.

17. It has been determined through regional, State, and national studies that tracking of mitigation/restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. In addition, to effectively carry out the State's "no net loss" wetland policy, the State needs to closely track both wetland losses and mitigation/restoration project success. Therefore, this Order requires that the Department use the digital interactive mapping tool called EcoAtlas to track the wetlands affected by the Project. EcoAtlas is a web-based tool that integrates maps, project plans, site conditions, restoration efforts, and other elements on a project-by-project basis based on data inputs.

18. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes implementation plans to achieve water quality objectives. The Basin Plan was duly adopted by the Water Board and approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law, and the U.S. Environmental Protection Agency, where required. This Order implements the Basin Plan and takes into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and Water Code section 13241.

19. The Project is located in the San Pablo Bay Hydrologic Unit Code (HUC) 8 watershed. The receiving waterway of the Project site is Tolay Creek Lagoon, a portion of San Pablo Bay. The Basin Plan states that "the beneficial uses of any specifically identified waterbody generally apply to all of its tributaries." The Basin Plan designates the following existing beneficial uses for San Pablo Bay:

    a. Industrial Service Supply (IND)

b. Ocean, Commercial, and Sport Fishing (COMM)

c. Shellfish Harvesting (SHELL)

d. Estuarine Habitat (EST)

e. Fish Migration (MIGR)

f. Fish Spawning (SPWN)

g. Preservation of Rare and Endangered Species (RARE)

h. Water Contact Recreation (REC-1)

i. Non-contact Water Recreation (REC-2)

j. Wildlife Habitat (WILD)

k. Navigation (NAV)

20. In its evaluation of the Project, the Water Board considered the California Wetlands Conservation Policy (Governor's Executive Order W-59-93, signed August 23, 1993), Senate Concurrent Resolution No. 28, and Water Code section 13142.5.

    a. The goals of the California Wetlands Conservation Policy include ensuring no "overall loss," and achieving a "long-term net gain in the quantity, quality, and permanence of wetlands acreage and values…."

    b. Senate Concurrent Resolution No. 28 states, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and multiple resources which depend on them for the benefit of the people of the State."

    c. Water Code section 13142.5 requires that "Highest priority shall be given to improving or eliminating discharges that adversely affect … wetlands, estuaries, and other biologically sensitive areas."

21. With the successful implementation of the restoration components described in these findings and the provisions, the Water Board finds that the Project will be consistent with the Dredge and Fill Procedures and Basin Plan implementation plan for wetland protection and management, including wetland fill, and the California Wetlands Conservation Policy, Senate Concurrent Resolution No. 28, and Water Code section 13142.5.

22. Project construction and land disturbance activities will result in the disturbance of one or more acres of land. The Department is required to obtain coverage for the Project under the General Permit for Discharges of Storm Water Associated with Construction and Land Disturbance Activities, State Water Board Order No. 2022-0057-DWQ; NPDES No. CAS000002 (Construction General Permit).

23. To obtain coverage under the Construction General Permit, the Department must

submit the specified Permit Registration Documents, including a Stormwater Pollution Prevention Plan (SWPPP). The Department shall prepare and implement a site-specific Stormwater Pollution Prevention Plan (SWPPP) for the construction of the Project, in accordance with the requirements, provisions, limitations, and prohibitions of the Construction General Permit.

24. The Project will result in the creation and replacement of 6.01 acres of impervious surfaces, which may impact water quality by generating, collecting, concentrating, and discharging automobile-related pollutants (e.g. oil, grease, heavy metals). To address the Project's post-construction impacts to beneficial uses, the Department has submitted a *Draft Stormwater Treatment Planning Proposal (October. 2025),* that proposed the installation of three biofiltration swales and two biofiltration vegetated strips that treat pollutants from at least 5.35 acres of new and reworked impervious surfaces.

25. To meet the stormwater treatment deficit, the Order requires the Department to provide treatment of runoff with similar pollutant loading to the Project site for an additional 0.66 acres of impervious surface at an offsite location. A proposal to treat at least 0.66 acres of impervious surface shall be submitted and approved by Water Board staff before commencement of Project construction, and the treatments shall be installed no later than the end of Project construction. If these additional treatments are not installed by the completion of Project construction, additional treatment area will be required.

26. The California Environmental Quality Act (CEQA) requires government agencies to consider the potential environmental impacts of their actions before approving a project.

    The Project is an element of the larger SR 37 Sears Point to Mare Island Improvement Project. The Department, as the lead agency, published a final environmental impact report (EIR) for the larger project in February 2023, and filed a CEQA Notice of Determination on February 9, 2023 (State Clearing House # 2020070226). The Water Board, acting as a responsible agency, has reviewed and considered the environmental impacts to water quality related to the issuance of this Order as analyzed in the EIR. The mitigation measures included in this Order mitigate or avoid the impacts to water quality related to the Project that the Water Board is approving by the issuance of this Order. The Water Board finds that compliance with this Order, including the mitigation measures that have been incorporated, will reduce the impacts to water quality to a level that is less than significant.

27. The Project will temporarily and permanently impact 5.45 acres of waters of the State, and the application fee based on these impacts is $204,615. The application fee was paid in full on September 10, 2025.

28. Pursuant to Water Code section 13260, the Department is required to pay annual fees for WDRs in a timely manner.

29. The Water Board notified the Department and interested parties of its intent to issue WDRs for the Project and provided 30 days to submit written comments on the Order.

30. The Water Board, in a public meeting, heard and considered all comments pertaining to

this Order.

IT IS HEREBY ORDERED that the California Department of Transportation (Department), in order to meet the provisions contained in division 7 of the Water Code and regulations adopted thereunder, shall comply with the following:

A. Discharge Prohibitions

The direct or indirect discharge of wastes, as defined in Water Code section 13050(d), within or outside of the active Project, to surface waters or surface water drainage courses is prohibited, except as authorized in this Order.

1. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

2. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.

3. The wetland fill activities subject to these requirements shall not cause a nuisance as defined in Water Code section 13050(m).

4. The discharge of decant water from active dredging or fill sites and dredged material/wet sediment stockpile or storage areas to surface waters or surface water drainage courses is prohibited, except as conditionally allowed following the submittal of a discharge plan or plans as described in the Provisions.

5. The groundwater in the vicinity of the Project shall not be degraded as a result of the Project activities or placement of fill for the Project.

Receiving Water Limitations

6. The discharges shall not cause the following conditions to exist in waters of the State at any place:

    a. Floating, suspended, or deposited macroscopic particulate matter or foam in concentrations that cause nuisance or adversely affect beneficial uses;

    b. Bottom deposits or aquatic growths to the extent that such deposits or growths cause nuisance or adversely affect beneficial uses;

    c. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

    d. Visible, floating, suspended, or deposited oil or other products of petroleum origin; or

    e. Toxic or other deleterious substances to be present in concentrations or quantities

that will cause deleterious effects on wildlife, waterfowl, or other aquatic biota or which render any of these unfit for human consumption, either at levels created in the receiving waters or as a result of biological concentration.

7. The discharges shall not cause nuisance or adversely affect the beneficial uses of the receiving water.

B. Provisions

The Department shall comply with all Prohibitions, Receiving Water Limitations, and Provisions of this Order immediately upon adoption of this Order or as provided below.

The Department shall submit final project design plans to the Executive Officer for review at least 60 days prior to project construction. The Department shall not begin construction of the Project until the Department has received the Executive Officer's written acceptance of the final project design plans.

1. The Project shall be constructed as described in the Report of Waste Discharge submitted by the Department on September 8, 2025, as supplemented through October 20, 2025. The Department shall submit any changes to the Project design to the Executive Officer. Project modifications from the final design plans may require an amendment of this Order. Any changes that do not require an amendment of the Order must be accepted in writing by the Executive Officer before they may be implemented.

2. The Department shall at all times fully comply with the engineering plans, specifications, and technical reports submitted with the completed Report of Waste Discharge.

   The Department shall submit a Marsh Mound Restoration Feasibility Analysis Report evaluating the feasibility of constructing marsh mounds in Tolay Lagoon along the south side of the roadway using excavated earthen materials from the Tolay Creek channel. The required report shall be submitted to the Executive Officer for review and acceptance no later than 60 days prior to project construction.

3. To determine the sustainability of beneficial reuse of excavated earthen material from the Tolay Creek channel, the Department shall submit a soil sampling and analysis plan including soil sampling frequency, soil screening criteria, and feasibility of beneficial reuse. The soil sampling shall evaluate the presence of contaminants, such as copper, lead, nickel, zinc, and polycyclic aromatic hydrocarbons (PAHs). The soil analytical results will be compared to the environmental action goals specified in Table 1. Regional Water Board staff will review data characterizing the quality of all material proposed for wetland creation at the Project site and determine whether the sediment are suitable for onsite reuse in wetland restoration. The Department shall submit the required plan at least 60 days before the start of Project construction. The plan must include the required elements as determined by the Executive Officer. The Department shall not begin construction of the Project until the Department has received the Executive Officer's written acceptance of the plan. If any pollutant concentration level in the soil samples exceeds the environmental action goals in Table 1 and the Department proposes to use that soil on the site, the Department shall submit a technical report to

the Executive Officer at least 60 days prior to proposed placement demonstrating the Department's ability to comply with all other requirements of this Order and demonstrating that the material is unlikely to impact beneficial uses.

Table 1. Tolay Creek Wetland Restoration Environmental Action Goals

Contaminant	Action Goals
Metals (mg/kg in dry weight)	
Arsenic	36[a]
Barium	188[a]
Beryllium	0.9[a]
Boron	71.6[a]
Cadmium	5.2[a]
Chromium	140[a]
Copper	120[a]
Lead	59[a]
Mercury	0.58[a]
Nickel	130[a]
Selenium	1.6[a]
Silver	0.73[b]
Zinc	230[a]
Pesticides/Herbicides/PCBs/Dioxins (mg/kg in dry weight)	
Total Benzene Hexachloride	0.01[c]
Total Chlordanes	0.00226[b]
Total DDTs	0.00158[d]
Dichlorprop	0.14[e]
Dieldrin	0.00072[b]
Endrin Aldehyde	0.0064[e]
Heptachlor	0.0088[e]
Heptachlor epoxide	0.0088[e]

Contaminant	Action Goals
Hexachlorobenzene	0.01[c]
Total PCBs	0.014[d]
Polycyclic Aromatic Hydrocarbons (mg/kg in dry weight)	
Total PAHs	1.684[b]

Note:

[a] Mare Island Ambient Concentrations from PRC Environmental Management, Inc. 1995. Technical Memorandum Estimation of Ambient Metal Concentrations in Soils, Mare Island Naval Shipyard Vallejo, California. December 14. Table 2..

[b] Threshold effects level from MacDonald, DD., Carr, RS., Calder, FD., Long, ER., and CG Ingersoll, 1996. Development and Evaluation of Sediment Quality Guidelines for Florida Coastal Waters. May 5. Ecotoxicology 5, 253-278 (1996).

[c] Ecological screening value from United States Environmental Protection Agency 2018. Region 4 Ecological Risk Assessment Supplemental Guidance. March.

[d] Effects Range-Low from Long, ER., MacDonald, DD. Smith, SL., and FD Calder, 1995. Incidence of Adverse Biological Effects within Ranges of Chemical Concentrations in Marine and Estuarine Sediments. October 15. Environ. Manage. 19(1):81-97.

[e] Site Cleanup Requirements in Order No. R2-2005-0034, July 20, 2005, California Regional Water Quality Control Board

4. The Project will restore temporarily impacted areas as described in the *Draft Restoration and Monitoring Plan for the SR 37/SR 121 Intersection and Tolay Creek Bridge Replacement Project*. The Project will also restore 1.13 acres of tidal channel by replacing the Tolay Creek bridge with a longer bridge and removing existing earthen fill below and adjacent to the bridge. In addition, no later than 60 days prior to commencement of Project construction, the Department shall submit an updated, Final Restoration and Monitoring Plan (RMP) that describes the on-site restoration of temporarily impacted wetlands, creek channels, and riparian habitats, and the associated monitoring and reporting plan. The Final RMP shall describe the onsite restoration from direct restoration of the temporarily impacted Project area of 3.31 acres of wetlands, creek channel, and riparian habitat, including the planting of at least 30 riparian trees. The Final RMP shall include a detailed restoration workplan, performance goals, success criteria, and the associated monitoring plan for the proposed mitigation activities. The plan must include the required elements as determined by the Executive Officer. The Department shall not begin construction of the Project until the Department has received the Executive Officer's written acceptance of the plan.

5. The Department shall construct biofiltration swales and biofiltration vegetated strips that shall treat a minimum of 5.35 acres of new and reworked impervious surfaces that will be created by the Project. All stormwater treatment controls are required to be installed and fully functional by Project construction completion.

6. The Department shall provide an alternative compliance plan for treating an additional

0.66 acres of impervious surface at an offsite location. The Department shall submit a proposal to treat at least 0.66 acres of impervious surface. Water Board staff will review the proposal to determine if it includes the required elements. The Department shall not begin Project construction until the proposal has been approved by Water Board staff. The proposal shall include the treatment implementation workplan, final designs, project construction schedule, cooperative mitigation agreement between the Department and municipalities. The alternative compliance treatments shall be installed no later than the end of Project construction. If these additional treatments are not installed by the completion of Project construction, additional treatment area will be required.

7. The Department shall input Project information to EcoAtlas within 14 days from the date of this Order. The Project information shall be added to the Project Tracker tool in EcoAtlas online at https://ptrack.ecoatlas.org. Instructions for adding information to EcoAtlas are available at https://ptrack.ecoatlas.org/instructions, or by contacting the San Francisco Estuary Institute by email at ptrackadmin@sfei.org, or Water Board staff. The Executive Officer may grant an extension to the 14-day deadline if the Department submits a request in writing to the Water Board. The extension request may be submitted via electronic mail. If any changes to the Project occur, the Department shall revise EcoAtlas information for the Project, accordingly. In cases when EcoAtlas must be revised, the Department shall meet the same schedule and notification requirements required for the initial EcoAtlas information.

8. Not later than 60 days prior to initiating construction of any Project component, the Department shall submit a final SWPPP, prepared pursuant to the Construction General Permit. The SWPPP shall include specifics of the design of the cofferdam and containment systems. The Executive Officer will review the SWPPP to determine whether it addresses the impacts associated with Project construction.

9. The Department shall minimize disturbance and removal of vegetation. The Department shall stabilize the site through the incorporation of appropriate BMPs following requirements of the SWPPP, including the successful reestablishment of native vegetation to enhance wildlife habitat values, and to prevent and control erosion.

10. No equipment shall be operated in waters of the State where there is flowing or standing water. Fueling, cleaning, or maintenance of vehicles or equipment during construction shall not occur within any areas where an accidental discharge to waters of the State may occur.

11. No unauthorized construction-related materials or wastes shall be allowed to enter into or be placed where they may be washed by rainfall or runoff into waters of the State. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be discharged to waters of the State.

12. The Department shall prepare an as-built report acceptable to the Executive Officer. The as-built report shall be submitted to the Water Board no later than 60 days after completing Project construction activities, including revegetation. The report shall include a description of the areas of actual disturbance during Project construction. The

report shall clearly identify and illustrate the Project Site, and the locations of permanent and temporary impacts in waters of the State. The report shall include as-built plans for stormwater treatment BMPs constructed with the Project. The as-built report shall be submitted as part of the Notice of Project Construction Completion via email to rb2-401reports@waterboards.ca.gov, or by mail to the attention of 401 Certification Reports (see address on the letterhead).

13. The Department shall submit a Notice of Project Construction Completion (NOC) acceptable to the Executive Officer no later than 60 days after completing Project construction activities. The NOC shall reference **NOC_462460_ SR37TolayCreekBridgeReplacement** and shall include the as-built report, the date of the first Project-related disturbance of waters of the State occurred, and the date construction was completed. The NOC shall be sent via email to rb2-401reports@waterboards.ca.gov.

14. The Department shall monitor and maintain the restored wetlands and creek channels annually for a minimum of five years to verify that impacts are avoided as described in the *Draft Restoration and Monitoring Plan for the SR 37/SR 121 Intersection and Tolay Creek Bridge Replacement Project*. Wetland delineations shall be conducted to demonstrate that the temporarily impacted wetlands are restored to preconstruction condition, or better. Riparian tree plantings shall be monitored for a minimum of ten years, or until the performance criteria are attained. The Department shall monitor the restored vegetated drainage ditches for a minimum of three years.

15. The Department shall submit annual monitoring reports, acceptable to the Executive Officer, by January 31 following each monitoring year. The first monitoring year commences in the calendar year after completing the Project. At the time of this Order, the Project completion is anticipated in 2029. Therefore, monitoring shall begin in 2030 and the first annual monitoring report shall be due on January 31, 2031, unless the Project is completed at a different time. Each annual report shall summarize each year's monitoring results, including the need for and implementation of remedial actions to help meet the performance criteria. The annual reports shall compare data to previous monitoring years and describe progress towards meeting final performance criteria.

    Annual monitoring reports (AMR) shall reference **AMR_462460_ SR37TolayCreekBridgeReplacement** and shall be submitted via email to rb2-401reports@waterboards.ca.gov.

16. The final monitoring report shall document if the restoration area meets the final performance criteria. If the final criteria are not met, the Department shall, in consultation with the appropriate agencies, identify remedial measures to be undertaken, including the extension of the monitoring and reporting period until the criteria are met. The Department shall implement all remedial measures identified upon receiving written acceptance by the Executive Officer. Success of the mitigation shall be determined by, and acceptable to, the Executive Officer.

17. In accordance with Water Code section 13260(c), the Department shall file with the Water Board a report of waste discharge relative to any material change or proposed

change in the character, location, or volume of waste discharge. Any proposed material change in operation shall be reported to the Executive Officer at least 30 days in advance of the proposed implementation of any change and must be approved by the Water Board prior to implementation. This shall include, but not be limited to, all significant new soil disturbances, all proposed expansion of development, any change in drainage characteristics, or any proposed change in the boundaries of the area of wetland and waters of the State to be filled.

18. The Department shall immediately notify the Board staff, Qi Yan at (510) 622-2329 or via email to qi.yan@waterboards.ca.gov whenever an adverse condition occurs as a result of the discharge authorized by this Order. Such a condition includes but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause non-compliance. Pursuant to Water Code section 13267(b), a written notification of the adverse condition shall be submitted to the Water Board within 48 hours of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by the Water Board staff, for the remedial actions.

19. The Department has full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.

20. The Department shall dispose of any hazardous, designated, or non-hazardous waste, as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, in accordance with applicable state and federal regulations.

21. The Department shall clean up and abate any wastes that are discharged at any sites in violation of this Order.

22. The Department shall maintain a copy of this Order at the Site, which shall be available at all times to operating personnel and agencies.

23. The Department shall permit the Water Board staff or its authorized representative, upon presentation of credentials:

    a. Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.

    b. Access to copy any records required to be kept under the terms and conditions of this Order.

    c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.

    d. Sampling of any discharge or surface water covered by this Order.

24. This Order does not authorize the commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and

agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.

25. This Order is conditioned upon payment of any fee required under Title 23 of the California Code of Regulations.

In accordance with Title 23 of the California Code of Regulations, section 2200, the Department shall pay an annual fee to the Water Board each fiscal year (July 1 – June 30) until Project construction activities and until all remaining Project activities (e.g., monitoring, adaptive management) have been completed and an acceptable NOC and a Notice of Mitigation Monitoring Completion is received by the Water Board. Annual fees will be automatically invoiced to the Department. (Note: The annual fee may be changed by the State Water Board; at the time that this Order was adopted, the annual fee is $3,540 per year. For more information on fees, visit https://www.waterboards.ca.gov/resources/fees/water_quality, under Water Quality Certification (WQC) Program Fees.[1]) **The Department must notify the Water Board at Project and restoration completion with a final report notice of termination (NOT) in order to request to terminate annual invoicing. The NOT shall reference NOT_462460_ SR37TolayCreekBridgeReplacement and should be sent to rb2-401reports@waterboards.ca.gov**. Water Board staff will verify that the provisions of the Order have been met and may request a site visit to confirm the Project's status and compliance with this Order.

26. This Order is not transferable in its entirety or in part to any person or organization except after notice to the Water Board in accordance with the following terms:

a. The Department must notify the Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Department and new owner must sign and date the notification and provide such notification to the Water Board at least 10 days prior to the transfer of ownership. The new owner must also submit a written request to the Water Board to be named as the Department in a revised permit.

b. Until such time as this Order has been modified to name the new owner as the Department, the Department shall continue to be responsible for all requirements set forth in this Order.

27. The Water Board will consider rescission of this Order upon Project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation required or otherwise permitted now or subsequently under this Order.

28. Through the issuance of this Order, the Water Board certifies that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards). Authorization is contingent on: (a)

[1] Annual invoices are issued for projects active for any amount of time in the current fiscal year (July 1 – June 30).

compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Basin Plan.

I, Eileen White, Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on Month X, 2026.

Eileen M. White, P.E.
Executive Officer

Attachments (provided as a separate document)
A: Project Figures
B: Stormwater Treatment Design Plans