

**EEM AGREEMENT DECLARING RESTRICTIVE COVENANTS (ADRC) - SAMPLE ONLY**

Recording requested by and when recorded mail to:

*(Name)*, Local Assistance Engineer  
State of California  
Department of Transportation, District *(District No.)*  
Office of Local Assistance  
*(Address)*  
*(City, CA Zip)*

(Space above for Recorder’s use.)

**Environmental Enhancement and Mitigation (EEM) Program Agreement Declaring Restrictive Covenants**

**State Project Number:** EEM-20XX(XXX)

This Agreement Declaring Restrictive Covenants (ADRC), hereinafter referred to as “AGREEMENT”, is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by and between the \_\_\_\_\_, hereinafter referred to as “APPLICANT,” and the State of California, acting by and through the California Department of Transportation (Caltrans), hereinafter referred to as “STATE.”

WHEREAS, APPLICANT acquires the real property described in Exhibit ADRC-A, hereinafter referred to as “REAL PROPERTY,” for the public purpose of undertaking REAL PROPERTY as an EEM Program project which is directly or indirectly related to the environmental impact of modifying existing transportation facilities or directly or indirectly related to the environmental impact of design, construction, or expansion of new transportation facilities described in Exhibit ADRC-B, hereinafter collectively referred to as “TRANSPORTATION FACILITIES;”

WHEREAS, APPLICANT will be the owner of the REAL PROPERTY to be acquired which is described in Exhibit ADRC-A, attached hereto and incorporated herein by this reference;

WHEREAS, APPLICANT will operate, manage, and maintain into the future the REAL PROPERTY to be acquired, developed, rehabilitated or restored pursuant to the EEM Applicant-State Agreement No. \_\_\_\_\_ and which is described in Exhibit ADRC-A1, attached hereto and incorporated herein by this reference;

WHEREAS, STATE has allocated funds to APPLICANT for REAL PROPERTY as provided in section 164.56 of the Streets and Highways Code; and

WHEREAS, both APPLICANT and STATE desire and intend to restrict the REAL PROPERTY uses to environmental enhancement and mitigation purposes so that all of REAL PROPERTY and TRANSPORTATION FACILITIES shall be benefited and each successive owner of all or part of said REAL PROPERTY and TRANSPORTATION FACILITIES shall be benefited by the preservation of REAL PROPERTY for environmental enhancement and mitigation purposes.

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NOW THEREFORE, in consideration of the mutual promises of the parties hereto, each to the other as covenantors and covenantees, and expressly for the substantial benefits to be derived therefrom, and to bind, their successors in interest, the said parties agree as follows:

**Management and Maintenance of Property**

1. APPLICANT will operate, manage, and maintain consistent with Exhibit ADRC-A1 of this AGREEMENT in the future the REAL PROPERTY acquired, developed, rehabilitated, or restored with funds allocated to APPLICANT pursuant to the EEM Applicant-State Agreement No. \_\_\_\_\_. With STATE's prior approval, APPLICANT, or its successors in interest, may modify or transfer these operation, management, and maintenance responsibilities in the REAL PROPERTY. If the REAL PROPERTY is not operated, managed, and maintained consistent with Exhibit ADRC-A1 to this AGREEMENT: 1) the State Highway Account, at the sole discretion of STATE and 45 days notice to APPLICANT by STATE, shall be reimbursed an amount at least equal to the amount of the STATE's funding participation of \$ \_\_\_\_\_ in REAL PROPERTY or STATE's pro rata participation of \_\_\_\_\_% of REAL PROPERTY based on its then fair market value, including improvements, at the time of the sale, whichever is higher, and 2) this AGREEMENT shall be terminated using Exhibit ADRC-C Notice of Revocation of Restrictive Covenants.

2. All REAL PROPERTY acquired with STATE Environmental Enhancement and Mitigation Program funds shall be subject to this AGREEMENT. If REAL PROPERTY is sold, traded, or otherwise put to any use other than as approved in this AGREEMENT, consistent with the application, or as approved by Caltrans or the CTC for the allocation for STATE funds: 1) the State Highway Account, at the sole discretion of STATE and 45 days notice to APPLICANT by STATE, shall be reimbursed an amount at least equal to the amount of STATE's funding participation of \$ \_\_\_\_\_ in REAL PROPERTY or STATE's pro rata participation of \_\_\_\_\_% of the fair market value of REAL PROPERTY, including improvements, at the time of sale, whichever is higher, and 2) this AGREEMENT shall be terminated using Exhibit ADRC-C Notice of Revocation of Restrictive Covenants. The STATE's pro rata share of the fair market value shall be based on the fund transfer amount applied toward the purchase of the property and the design and construction of improvements in proportion to the total purchase price of the property and the cost of all improvements made prior to the time of sale.

**Term**

3. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until revoked or amended pursuant to the Amendment and Revocation provisions of this AGREEMENT.

**Assignment**

4. Without the written consent of STATE, this AGREEMENT is not assignable in whole or in part by APPLICANT.

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**Amendment and Revocation**

5. This AGREEMENT and any amendments to it may be amended in any respect by the execution by STATE and APPLICANT of any instrument amending or revoking this AGREEMENT. The amending or revoking instrument shall make appropriate reference to this AGREEMENT and its amendments and shall be acknowledged and recorded in the office of the County Recorder of the counties in which the property is located. The revoking instrument for this AGREEMENT is attached as Exhibit ADRC-C.

**Enforcement**

6. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

**Indemnification**

7. Neither STATE nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by APPLICANT under or in connection with any work, authority or jurisdiction delegated to APPLICANT under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, APPLICANT shall fully defend, indemnify and save harmless the State of California, all officers, and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Gov. Code #8108) occurring by reason of anything done or omitted to be done by APPLICANT under or in connection with any work, authority or jurisdiction delegated to APPLICANT under this AGREEMENT. STATE reserves the right to represent itself in any litigation in which STATE's interests are at stake.

**Purpose of Agreement**

8. This AGREEMENT is solely for recording purposes and shall not be construed to alter, modify, amend, or supplement the Environmental Enhancement and Mitigation (EEM) Program Applicant-State Agreement No. \_\_\_\_\_, or the application for funds as prepared by APPLICANT.

**Severability**

9. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

**EEM AGREEMENT DECLARING RESTRICTIVE COVENANTS (ADRC) - SAMPLE ONLY (Cont.)**

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IN WITNESS WHEREOF, the parties hereby execute this AGREEMENT by their duly authorized officers as of the date set forth above and agree to be bound hereby:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

APPLICANT

By: \_\_\_\_\_  
*(Signature)*

By: \_\_\_\_\_  
*(Applicant Representative Signature)*

\_\_\_\_\_  
*(Name)*, District Right of Way Division Chief

\_\_\_\_\_  
*(Name and Title)*

\_\_\_\_\_  
*(Agency)*

\_\_\_\_\_  
*(City, State, Zip)*

\_\_\_\_\_  
*(Phone No.)*

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(Space below for Notary Public jurats or acknowledgments)

**EXHIBIT ADRC-A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

*(For this EEM project that involves the acquisition of real property, insert the legal description of the property to be purchased by the applicant consistent with the project application, or as approved by CTC or STATE.)*

**EXHIBIT ADRC-A1**

**MANAGEMENT AND MAINTENANCE OF REAL PROPERTY**

*(For this EEM project which involves the acquisition of real property, insert the description of the uses of the property as it is to be operated, managed, and maintained by the applicant in the future consistent with the project agreement, or as approved by CTC or STATE.)*

**EXHIBIT ADRC-B**

**DESCRIPTION OF RELATED TRANSPORTATION FACILITIES**

*(For this EEM project that involves the acquisition of real property, insert the description of the related transportation facility consistent with the project application)*

**EEM AGREEMENT DECLARING RESTRICTIVE COVENANTS (ADRC) - SAMPLE ONLY (Cont.)**

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Recording requested by and  
when recorded mail to:

*(Name)*, Local Assistance Engineer  
State of California  
Department of Transportation, District *(District No.)*  
Office of Local Assistance  
*(Address)*  
*(City, CA Zip)*

(Space above for Recorder's use.)

**EXHIBIT ADRC-C  
Environmental Enhancement and Mitigation (EEM) Program  
Notice of Revocation of Restrictive Covenants**

**State Project Number: EEM-20XX(XXX)**

NOTICE IS HEREBY GIVEN, that the undersigned revokes certain Agreement Declaring Restrictive Covenants to the property described therein, caused to be recorded on *(Date)*, in Book \_\_\_\_\_, Page \_\_\_\_\_, of the Official Records of \_\_\_\_\_ County, State of California, and any amendments thereto, caused to be recorded *(Date)*, in Book \_\_\_\_\_, Page \_\_\_\_\_, of the Official Records of \_\_\_\_\_ County, State of California.

IN WITNESS WHEREOF, the parties hereby execute this AGREEMENT by their duly authorized officers as of the date set forth above and agree to be bound hereby:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

APPLICANT

By: \_\_\_\_\_  
*(Signature)*

By: \_\_\_\_\_  
*(Applicant Representative Signature)*

\_\_\_\_\_  
*(Name)*, District Right of Way Division Chief

\_\_\_\_\_  
*(Name and Title)*

\_\_\_\_\_  
*(Agency)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
*(City, State, Zip)*