



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

(707) 428-2002

www.wildlife.ca.gov

GAVIN NEWSOM, Governor

CHARLTON H. BONHAM, Director



August 27, 2021

Mr. John Stanek

Tracy Phase 2, LLC., Tracy Phase 3, LLC

Tracy Phase 4, LLC.

888 San Clemente Drive, Suite 100

Newport Beach, CA 92660

JStanek@integralcommunities.com

Subject: Incidental Take Permit Application for the Tracy Hill Project, 2081-2018-032-03, San Joaquin County

Dear Mr. Stanek:

Enclosed you will find an electronic copy of the Incidental Take Permit for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully and sign the acknowledgement on the permit **no later than 30 days from CDFW signature** and prior to initiation of ground-disturbing activities. You may return an electronic copy of the permit with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Alternatively, you may return a hard copy of the permit via mail to:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
Post Office Box 944209
Sacramento, CA 94244-2090

You are advised to keep the permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The permit will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Melissa Farinha, Environmental Program Manager, at (530) 351-4801 or Melissa.Farinha@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stacy Sherman

Stacy Sherman

Acting Regional Manager

Bay Delta Region

Conserving California's Wildlife Since 1870



**California Department of Fish and Wildlife
Bay Delta Region
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534**

California Endangered Species Act
Incidental Take Permit No. 2081-2018-032-03

TRACY HILLS PROJECT

Authority:

This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee: Tracy Phase 2, LLC., Tracy Phase 3, LLC.
Tracy Phase 4, LLC.

Principal Officer: John Stanek, Authorized Representative

Contact Person: John Palmer, (209) 229-7954

Mailing Address: 888 San Clemente Drive, Suite 100
Newport Beach, CA 92660

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2036**.

¹Pursuant to Fish and Game Code section 86, "'take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill"]).

²"The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 5.8 (Annual and Final Construction Report) of this ITP.

Project Location:

The Tracy Hills Project (Project) is located in southwestern San Joaquin County adjacent to and west of Interstate 580 (I-580) and in the southwest portion of the City of Tracy. The approved Tracy Hills Specific Plan (Specific Plan) has been divided into three areas for identifying the development areas covered under the San Joaquin Council of Governments' *San Joaquin Multi-Species Habitat Conservation and Open Space Plan* (SJMSCP), and the Development Area that is covered in this ITP shown as Areas A, B, and C on Figure 1. Of these three areas, this ITP covers only Area C and the Conservation Easement Area. Area C consists of a 1,148-acre development area bordered on the south and southeast by Corral Hollow Road, on the north and northeast by I-580, and on the west and southwest by the Conservation Easement Area (Figure 1).

Project Description:

The Project includes residential, mixed-use business, commercial development, associated infrastructure (e.g., roadways) and highway intersection improvements within the Development Area as shown in Figure 2. Figure 3 provides more detail on the types of specific uses allowed in each zone. Associated infrastructure includes the following:

- New internal roads and expansion of existing roads
- Electric distribution lines and new substation
- Parks, schools, and recreational facilities
- Sewer pipelines and pump stations
- Water supply distribution pipelines, storm drain pipelines, retention basins, and water storage tanks and pump station

Types of Land Use/Development

Residential Development: Most of the Project will be residential housing development in one of three density categories:

- Residential Estate—0.5 to 2.0 dwelling units/acre
- Low Density Residential—2.1 to 5.8 dwelling units/acre
- Medium Density Residential—5.9 to 12.0 dwelling units/acre

The residential development covered by this ITP is currently planned to include approximately 1,084 acres that will be a mix of Residential Estate, Low-Density Residential, and Medium-Density Residential. The mix of densities and residential zoning configurations within the Development Areas may change during the Permit Term; however, the overall boundary of development will remain the same. Additionally, the lower density housing (Residential Estate and Low Density Residential) will be located closest to the Conservation Easement Area.

Mixed-Use Business Park: Currently, a 28.9-acre area at the intersection of I-580 and Lammers Parkway is zoned Mixed-Use Business Park. The Mixed-Use Business Park zoning district allows a broad range of commercial, institutional, and business uses to serve the community and provide employment opportunities. This proposed land use may change to another type described here in the Project Description section of this ITP.

Commercial Development: Currently, a relatively small portion (6.8 acres) of the proposed development is zoned Commercial, along Corral Hollow Road (Figure 2). The purpose of this zone is to provide a mix of retail and services for residents and travelers. This proposed land use may change to another type described here in the Project Description section of this ITP.

Road Construction

In addition to the construction of roads that will be internal to the residential, mixed-use business park, and commercial development described above, the Permittee will submit a future Amendment Request to include expansion of two future interchanges as Covered Activities (Figure 2). The construction of the interchange at Lammers Parkway and I-580 and the expansion of the Corral Hollow Road and I-580 interchange are an estimated 28.1 acres (the footprint of all roads internal to development are included in each of the three development categories described above). The impact analysis and compensatory mitigation requirements in this ITP have contemplated and incorporated the 28.1 acres of impact but has not contemplated the design and ongoing operations and maintenance of the interchanges as they relate to nonhabitat-related impacts to the Covered Species (e.g., movement through the landscape or additional source of mortality).

Project Timing

Construction activities will occur in three concurrent phases beginning in approximately 2021 and cover a total period of approximately 9 years. The anticipated construction schedule of each Project Phase is as follows (the actual construction schedule may vary by several years, depending on market conditions and other factors):

- Phase I: September 2021–September 2025
- Phase II: September 2025–September 2029
- Phase III: November 2028–July 2030

Prior to completion of construction of Phase I of development in the Permit Area or by September 2025, whichever comes first, fencing will be installed along the Conservation Easement Area boundary adjacent to the Development Area, to prevent humans from entering the Conservation Easement Area and reduce the risk of pets, particularly dogs, from entering the Conservation Easement Area. The fencing will consist of a three-pipe fence, installed with welded wire (“no climb wire”) to act as a barrier or strong deterrent to predators, larger domestic animals, and pedestrians but suspended four to five inches from the ground to allow for kit fox movement.

In addition to the fencing, a firebreak will be constructed and maintained in either one of two configurations, shown in Figure 4, as phases are constructed.

The construction of a Project Phase will occur in the following stages:

- Temporary exclusion fence installation: This consists of installing temporary exclusion fencing between disturbance areas and adjacent aquatic habitat for California tiger salamander along Corral Hollow Creek.
- Clearing and grubbing: This consists of removal of all vegetation, roots, and other matter on the construction site, in preparation for grading. This stage lasts approximately three months per phase.
- Grading: This consists of leveling and contouring the site in preparation for construction and paving. This stage lasts approximately 100 to 150 days per phase. No earth will be imported to or exported from the site. Water will be used to control dust at the site three times per day during this stage.
- Construction and paving: This stage consists of paving roads and other hardscaped surfaces, installing infrastructure and utilities, and building structures. This stage lasts approximately two years per phase.
- Landscaping and finish work: This stage consists of any landscaping the developers install and finish work on the construction prior to selling the houses or other buildings. This stage lasts approximately six months per phase.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Threatened
2. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened

These species and only these species are the “Covered Species” for the purposes of this ITP.

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: clearing and grubbing; grading; construction and paving; landscaping and finish work grading; stockpiling soils; soil stabilization; and habitat management and habitat enhancements for Covered Species (Covered Activities). It is anticipated that the Permittee will request a Memorandum of Understanding (Fish & G. Code, § 2081, subd. (b)) prior to the expiration of this ITP that will cover ongoing management activities as set forth in the final management plan and any future amendments approved by CDFW to the final management plan required in Condition of Approval 7.2 (Habitat Acquisition and Protection).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as loss of most easily traversed wildlife movement corridor in the local region; heavy equipment and vehicle strikes; augering and drilling, discharging water, filling and compacting of soil, and crushing or entombment during construction activities. Individuals of the Covered Species dispersing onto the Development Area from off-site localities during seasonal movements to and from denning sites, travel corridors, off-site breeding ponds, or upland habitat will be susceptible to injury or mortality from desiccation, predation, being trapped in artificial structures and excavated holes, crushed under vehicular or foot traffic or other construction activities. Individuals residing in underground refugia on-site may be crushed during excavation and vehicular movement, suffocated by soil side-casting or by grading activities and entombed in burrows or dens. Covered Species may also disperse from refugia due to noise and ground vibrations from use of heavy equipment during construction into open areas where they are more susceptible to injury or mortality. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture and relocation. The areas where authorized take of the Covered Species is expected to occur include: the Development Area and Conservation Easement Area (collectively, the Project Area).

The Project is expected to cause the permanent loss of 1,148 acres of habitat for San Joaquin kit fox and 854 acres of habitat for California tiger salamander. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling, capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, narrowing and elimination of travel corridors resulting in reduced fecundity and gene flow between metapopulations, migration interference due to artificial lighting, increased competition for food and space, den abandonment, increased incidences of vehicle strikes on new or improved roads, exposure to contaminants, rodenticides, domestic pets, trash ingestion or entanglements, entrapment in storm water basins, maintenance activities to storm water basins, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular, aircraft (e.g., helicopter) ingress and egress, staging and parking, and noise and vibration generating activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2013102053) certified by the City of Tracy on April 26, 2016 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

4. General Provisions:

- 4.1. No Impacts to Covered Species Aquatic Breeding Habitat: No direct impacts to Covered Species aquatic breeding habitat within the Development Area from construction-related activities (e.g., stormwater outfalls, road improvements) are authorized under this ITP. Permittee shall apply for an amendment to this ITP and provide specific designs or other plans for these types of impacts when designs are able to be provided. Upon receipt of an amendment request CDFW shall evaluate any additional impacts and provide additional Conditions of Approval if necessary and require compensatory mitigation to meet the full mitigation standard.

- 4.2. Designated Representative: Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 4.3. Designated Biologist: Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 4.4. Designated Biologist Authority: To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 4.5. Education Program: Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area greater than a 12-month period. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout (printed in both English and Spanish) containing this information for workers to carry in the Project Area. The training handout shall contain the following information:

- 4.5.1. Descriptions of the Covered Species (including photographs) and their habitat needs.
- 4.5.2. A current report of the occurrences of the Covered Species in the Project Area.
- 4.5.3. An explanation of the protected status of each Covered Species under the federal and state endangered species acts and legal obligations.
- 4.5.4. Avoidance and minimization measures that will be followed to reduce impacts on the Covered Species during all Project activities: construction, operations and maintenance, and decommissioning, and the penalties for not following the avoidance and mitigation measures.
- 4.5.5. Instructions on the procedures that will be implemented if a Covered Species is found on-site, including contact information of a biological monitor and U.S. Fish and Wildlife Service (USFWS) personnel.
- 4.6. Construction Monitoring Binder: The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project Area upon request by CDFW.
- 4.7. Trash Abatement: Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of Covered Activities. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week during Covered Activities to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 4.8. Dust Control: Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles for longer than 24 hours.
- 4.9. Erosion Control Materials: Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 4.10. Delineation of Property Boundaries: Before starting Covered Activities along each part of the route in active construction for each phase, Permittee shall clearly delineate the boundaries of the area to be disturbed for development for the specific phase within the Development Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee

shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area for each phase.

- 4.11. Delineation of Habitat: Prior to construction, the Permittee shall stake, flag, fence or otherwise conspicuously delineate all environmentally sensitive areas that are to be protected in place and remain undisturbed during construction, including the boundaries between the Development Area and the Conservation Easement Area. The Permittee shall also delineate the boundary of the work area for each Project Phase as they occur. Environmentally sensitive areas are defined as wetland, riparian areas, aquatic areas, and raptor nesting locations. The materials used to delineate environmentally sensitive areas will be removed no later than 30 days following completion of construction.
- 4.12. Project Access: Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. Project-related construction vehicles will observe a daytime on-site speed limit of 20-mph, except on County and City roads and State and Federal highways. All Project-related traffic will observe a night-time speed limit of 10-mph during construction, except on County and City roads and State and Federal highways. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 4.13. Staging Areas: Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area.
- 4.14. Hazardous Waste: Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 4.15. CDFW Access: Permittee shall provide CDFW staff with reasonable access to the Project Area and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation

measures set forth in this ITP.

- 4.16. Refuse Removal: Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 4.17. No Pets: With the exception of livestock or working animals used by the CDFW-approved long-term land manager and as described in the final management plan (see Condition of Approval 7.2, Habitat Acquisition and Protection), no domestic animals shall be allowed within the Project Area unless on leash and restricted to designated vehicle parking areas during Covered Activities.
- 4.18. No Loaded Firearms: With the exceptions of law enforcement officers, grazing operators, the CDFW-approved long-term land manager or non-commercial hunting activities as described in the allowed uses of the final management plan (see Condition of Approval 7.2, Habitat Acquisition and Protection), no unsecured (i.e., locked up) or loaded firearms shall be allowed within the Project Area at any time.
- 4.19. Pesticides: No rodenticides or herbicides shall be used within the Project Area until Covered Activities have been completed or in the Conservation Easement Area unless specifically approved in the final management plan required in Condition of Approval 7.2 (Habitat Acquisition and Protection) or in writing by CDFW.
- 4.20. Urban/Suburban Storm Drain Designs and Construction for Areas Adjacent to Natural Lands: To prevent one-way entrainment of Covered Species in specially designated area(s) (Figure 5), Permittee shall ensure that grated drop inlets or other types of storm drain infrastructure shall be constructed in a manner or outfitted with devices to prevent entrainment. Permittee shall obtain written acceptance from CDFW confirming that the infrastructure incorporates design elements to avoid and reduce impacts to Covered Species prior to installation of such infrastructure.
- 4.21. Submit Designs for Storm Water Infrastructure: Permittee shall submit the plans for storm water-related infrastructure to CDFW for written acceptance prior to Covered Activities occurring for each Project Phase. Infrastructures shall be designed and constructed to prevent conflicts with or take of Covered Species.
- 4.22. Development Area Lighting: All lighting shall be designed so that exterior light fixtures are hooded, with lights directed downward or toward the area to be illuminated, with little to no horizontal spread, as low to the ground as feasible and so that backscatter to the nighttime sky is minimized. The design of the lighting will be such that the luminescence or light sources are shielded to prevent light trespass outside the Development Area boundary and neither the lamp nor the reflector interior surface would be visible from outside the footprint of the Development Area

except for public roadways. Only narrow spectrum bulbs shall be used to limit the range of species affected by lighting. All lighting will be of minimum necessary brightness consistent for worker safety. The number of lighting fixtures on buildings and roadways shall be limited to the minimum required by the City of Tracy.

5. Monitoring, Notification and Reporting Provisions:

- 5.1. Notification Before Commencement: The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities each Project Phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities for each Project Phase.
- 5.2. Notification of Non-compliance: The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 5.3. Daily Compliance Monitoring: The Designated Biologist shall be on-site daily while Covered Activities occur. This requirement does not apply to allowed activities identified in the final management plan within the Easement Area once approved by CDFW. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) obtain photo documentation of Project Area conditions; (5) check all exclusion zones; and (6) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. Daily compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW per Condition of Approval 5.4 (Weekly Compliance Monitoring).
- 5.4. Weekly Compliance Monitoring: During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW for each Project Phase. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the exclusion fencing.

- 5.5. Monthly Compliance Report: The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 5.3 and 5.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be certified by the Designated Biologist (i.e., signed) and submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Bay Delta Region Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Melissa Farinha (Melissa.Farinha@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 5.6. Annual Status Report: Permittee shall provide CDFW with an Annual Status Report (ASR) no later than March 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for the year identified; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 5.7. CNDDDB Observations: The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 5.8. Final Mitigation Report: No later than 45 days after completion of all mitigation measures after all Project Phases are complete, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other

Project impacts on the Covered Species; for each phase (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

6. Take Minimization Measures:

The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species in addition to the measures outlined in Section 7 of the ITP Application:

- 6.1. Seasonal Work Window Restriction: It is anticipated that the initial ground disturbance (such as excavation, clearing and grubbing) for Phase I will take place during the rainy season (October 15, 2021, through April 1, 2022, and that Covered activities shall be subject to Condition of Approval 6.4 below. After April 1, 2022, Permittee shall limit Covered Activities that will result in either initial ground disturbance (such as excavation, grading, trenching, contouring, or clearing and grubbing) from April 1 through October 31. Once habitat has been removed and exclusion fencing is in place, activities within the exclusion fencing may occur year-round. If areas have become fallow after initial disturbance and grasses, shrubs have become reestablished, then Covered Activities shall only resume during the period from April 1 through October 31, within California tiger salamander habitat areas delineated in Figure 6 and shall only occur outside this work window after habitat (including ground squirrel and gopher burrows) is removed and exclusion fencing is in place.
- 6.2. Daily Work Window Restriction: All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise unless otherwise approved by the Designated Biologist. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area (http://aa.usno.navy.mil/data/docs/RS_OneYear.php).
- 6.3. Seasonal Work Window Extensions: Permittee shall adhere to the seasonal work window required in Condition of Approval 6.1 unless an expanded work window is approved by CDFW. Permittee shall submit any requests for extensions in writing at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If work is approved the following conditions shall apply:
 - 6.3.1. Any work site located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with a temporary wildlife exclusion barrier with coverboards (see Measure

- 6.11). All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.
- 6.3.2. All construction vehicle and heavy equipment travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible.
- 6.3.3. The temporary exclusion barrier shall be installed around any areas within the Development Area of each Project Phase that could become ponded (for more than 24-hours) and provide breeding habitat during rain events. Coverboards shall be placed around the inside and outside perimeter of the temporary exclusion barrier as described in Condition of Approval 6.11.
- 6.4. Wet Season Work Restriction: If CDFW has approved a seasonal work window extension per Condition of Approval 6.3, then, during the wet season between October 15 through April 30, Covered Activities shall cease 24 hours prior to a 30 percent or greater forecast of rain. Construction may continue 24 hours after the rain ceases and there is less than a 30 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 30 percent or more chance of precipitation in the 24-hour forecast subject to full implementation of Condition of Approval 6.6 and the following condition:
- 6.4.1. If work is approved when a greater than 30 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project Area where Covered Activities are planned before they begin each day rain is forecast. If rain exceeds 0.50 inches during a 24-hour period, work shall cease until there is a less than 30 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain event.
- 6.5. Erosion Control: All erosion and sediment control measures shall be installed prior to earth moving Covered Activities. Permittee shall utilize erosion control measures throughout each Project Phase where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.
- 6.6. No Project Phase without Erosion Control: No Project Phase may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that construction phase may cause the introduction of sediments into a drainage, stream, or pond. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream.

- 6.7. Geo-Textile and Monofilament Netting Restriction: To minimize the risk of ensnaring and strangling wildlife, Permittee shall not place erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting. Any geo-textile material or filter fabric used within the Project Area shall not any contain petroleum-based products. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves. No geotextile fabrics shall be placed where they may be exposed to stream flows
- 6.8. Location of Spoil Sites: Spoil sites shall not be located where it may be washed back into a watercourse or within any potential Covered Species habitat throughout the Project Area.
- 6.9. Cover Spoil Piles: Prior to construction of a Project Phase, Permittee shall submit the Project's Stormwater Pollution and Prevention Plan and Dust Control Permit Plan for that Project Phase and comply with each plan's requirements. Permittee shall take any necessary precautions to prevent loose soils or dust from entering streams or stormwater infrastructure that discharges into streams.
- 6.10. Temporary Exclusion Barrier: At least 30 days prior to the initiation of Covered Activities on each Project Phase, the Permittee shall submit to CDFW for written approval plans for an exclusion fencing system for the upcoming active phase, and access routes as appropriate. CDFW has 30 days to respond to each submission of plans, including resubmission of plans that are revised at the request of CDFW. The plans shall include a map indicating location of exclusion fencing in relation to the Project Area, the Project Phase that will be constructed, location of special-status wildlife habitat features, dimension specifications and a description of fencing materials. Permittee shall be responsible for implementation and upkeep of the fencing system. In addition, the following criteria for the exclusion fencing system shall be met:
- 6.10.1. The exclusion fencing shall consist of material appropriate for exclusion of Covered Species.
- 6.10.2. There shall be a section of exclusion fencing placed between disturbance areas and aquatic habitat for California tiger salamander along Corral Hollow Creek to prevent individuals from entering any slated ground disturbance areas from the creek.
- 6.10.3. The exclusion fencing shall either measure at least 36 inches tall above the soil surface or be of an appropriate height for exclusion of the Covered Species.
- 6.10.4. The Designated Biologist shall inspect the fencing immediately after every rain event to ensure it maintains structural integrity. Holes or burrows which

appear to extend under the fencing will be blocked inside the fence line to prevent California tiger salamander from accessing work areas.

- 6.10.5. The bottom of the exclusion fencing shall not allow wildlife to pass through gaps or holes with the bottom of the fencing buried six inches below grade.
- 6.10.6. The exclusion fencing shall be taut between the supporting stakes and shall have the supporting stakes oriented on the inside edge towards the development areas.
- 6.10.7. The exclusion fencing shall feature coverboards inside and outside the perimeter placed at 100-foot intervals and one-way escape doors or an appropriate design for preventing special-status species and other wildlife from being trapped within a Project Phase that is under active construction.
- 6.10.8. The fencing and coverboards shall be inspected every morning for trapped California tiger salamanders during periods when they are likely to be migrating above-ground. These daily-inspection periods include the period from May 1 through August 31 when salamander metamorphs are likely to be migrating away from their natal ponds, and all year on mornings following any rain event greater than 0.1 inches, when adults may be migrating to their breeding ponds. If a California tiger salamander is encountered during these inspections, and is in danger of being harmed, then the Designated Biologist shall temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the pre-approved location as described in the Covered Species Relocation Plan (Condition of Approval 6.12).
- 6.10.9. If fencing becomes damaged, it will be immediately repaired upon detection and the Designated Biologist shall stop work in the vicinity of the fencing as needed to ensure that no California tiger salamanders have entered the construction area.
- 6.10.10. Fencing system entry/exit points for vehicular and pedestrian traffic shall be constructed so wildlife cannot access the area within a Project Phase under active construction during non-work hours.
- 6.10.11. The Designated Biologist shall inspect the Project Area prior to installation of the exclusion fencing. The exclusion fencing system shall remain in place until all construction activities have been completed in the corresponding Project Phase. All components of the exclusion fencing will be removed for storage or disposal off-site immediately upon completion of construction activities. All vegetation slated for removal in the exclusion fencing buffer area shall be inspected by a Designated Biologist prior to the initiation of removal. Exclusion fencing shall be inspected daily by the Designated Biologist and repaired as

necessary, including inspection of coverboards and replacement of wetted sponges as necessary to minimize wildlife distress.

- 6.11. Covered Species/Conservation Easement Area Permanent Fencing: Permittee shall provide a Covered Species/Conservation Easement Area Fencing Plan a minimum of 30 days prior to commencing any Covered Activities for approval in writing by CDFW. Fencing structures identified in the plan shall be installed either according to the approved plan or prior to commencement of Covered Activities for each phase, and shall be completed in its entirety (i.e., spans the interface between the Development Area and the Conservation Easement Area) (see Figure 1) by the end of the year 2025. The Permittee shall ensure any permanent fencing is monitored and maintained. Permittee shall ensure that permanent barriers or fencing installed between fully developed areas and Covered Species habitat are maintained in perpetuity.
- 6.12. Covered Species Relocation: If a California tiger salamander is encountered during these inspections, and is in danger of being harmed, the Designated Biologist shall temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the pre-approved relocation location as described in Attachment 5. California tiger salamanders that will be relocated and released by the Designated Biologist outside the construction area, preferably within 300 feet of where it was found, in protected suitable habitat in the Conservation Easement Area. Under no circumstances will a California tiger salamander be released on a site other than the Conservation Easement Area unless the written permission of the landowner has been obtained prior to the start of construction of each phase.
- 6.13. Avoidance or Treatment of Burrows: All mammal burrows within the Development Area that cannot be avoided shall be hand-excavated and collapsed so that they do not attract California tiger salamanders or San Joaquin kit fox during Covered Activities. This shall occur prior to and during the clearing and grubbing phase of each Project Phase.
- 6.14. Open Trenches, Pits or Holes: Any open trenches, pits, holes or other excavations into which Covered Species may fall or become trapped shall either be covered if feasible or have wildlife escape ramps installed as determined by the Designated Biologist at the end of each workday. Prior to the initiation of construction each day and prior to the covering trenches, holes or pits, the Designated Biologist or Biological Monitor shall inspect them for wildlife for movement out of harm's way.
- 6.15. Open Pipes Restriction: All pipes, culverts, or similar structures with a 4-inch or greater diameter that are stored on-site for one or more overnight periods shall be securely capped on both ends prior to storage when feasible and thoroughly inspected for wildlife by the Designated Biologist or Construction Monitor prior to utilization. All hollow pipes or posts after they are installed as part of the Project and

exposed to the environment shall be capped, screened, or filled with material by Permittee prior to the end of the day in which installation occurs.

- 6.16. Notification of Mortality or Injury: Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within three calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.
- 6.17. Handling of California Tiger Salamanders: California tiger salamanders shall be handled and assessed according to The Declining Amphibian Task Force Fieldwork Code of Practice available online at: https://www.fws.gov/southwest/es/NewMexico/documents/SP/Declining_Amphibian_Task_Force_Fieldwork_Code_of_Practice.pdf.
- 6.18. Injured or Dead California Tiger Salamanders: If an injured California tiger salamander is found during the term of this ITP, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts, then the following steps shall be taken:
- 6.18.1. If the injury is minor or healing and the salamander is likely to survive as determined by the Designated Biologist, the salamander shall be released immediately in accordance with the Condition of Approval 6.21.
- 6.18.2. If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved wildlife rehabilitation or veterinary facility. If taken into captivity, the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.18.

Incidental Take Permit
No. 2081-2018-032-03

TRACY PHASE 2, LLC, TRACY PHASE 3, LLC, TRACY PHASE 4, LLC
TRACY HILLS PROJECT

- 6.18.3. If the California tiger salamander is found recently deceased (as evidenced by lack of odor or decomposition), a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. CDFW shall be consulted on specimen disposal.
- 6.19. California Tiger Salamander Relocation During Project Construction: The Designated Biologist shall relocate any California tiger salamander found within the Development Area to an active rodent burrow system nearest to aquatic habitat within the Conservation Easement Area. The California tiger salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and approved by CDFW prior to the start of Covered Activities. The Designated Biologist shall document both locations by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW Representative within 24 hours of Covered Species Relocation.
- 6.20. San Joaquin Kit Fox Sightings: Any sightings of San Joaquin kit fox within or surrounding the Project Area shall be immediately reported to CDFW's Regional Contact. Any San Joaquin kit fox found within the Project Area shall be allowed to disperse on their own unless otherwise approved in writing by CDFW for specific individuals.
- 6.21. San Joaquin Kit Fox Injury: If a San Joaquin kit fox is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured San Joaquin kit fox. The Permittee shall notify CDFW of the injury to the San Joaquin kit fox immediately by telephone and e-mail followed by a written incident report. Notification shall include the name of the facility where the animal was taken.
- 6.22. Clearance Surveys: The Designated Biologist shall survey potential habitat features, such as aquatic and upland areas, and beneath woody debris, for California tiger salamander and for previously unidentified potential San Joaquin kit fox dens during clearing, grubbing and initial site grading. If vegetation or fossorial mammal burrows become reestablished in a previously disturbed area, then the Designated Biologist shall resurvey these areas prior to conducting Covered Activities to ensure Covered Species are not in harm's way. If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a

Incidental Take Permit
No. 2081-2018-032-03

TRACY PHASE 2, LLC, TRACY PHASE 3, LLC, TRACY PHASE 4, LLC
TRACY HILLS PROJECT

safe location nearby (see Condition of Approval 6.20). If the Designated Biologist(s) or anyone else discovers a potential San Joaquin kit fox den, then the status of the den shall be determined per methods outlined in Condition of Approval 6.26.

- 6.23. Augering and Excavation Surveys: The Designated Biologist shall survey all augering and excavation soils material originating from up to 6-feet below grade in potential California tiger salamander habitat. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.
- 6.24. San Joaquin Kit Fox Den Surveys: No less than 14 days and no more than 30 days before Covered Activities begin the Designated Biologist shall conduct and direct walking transect surveys to detect potential San Joaquin kit fox dens in the Project Area. The Designated Biologist shall ensure that walking transects are conducted such that 100% visual coverage of the Project Area is achieved. The Designated Biologist shall adjust the transect width based upon vegetation height, topography, and other factors to facilitate the detection of dens and other sign. The Designated Biologist shall use the walking transects to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. The status of all dens shall be determined and mapped within the Project Area (including the Conservation Easement Area). Potential dens will be considered to be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox. For areas within the Development Area that are either vegetated, become vegetated, or where mammal burrows become established or remain undisturbed by Covered Activities, den surveys shall be performed prior to initiating Covered Activities or re-initiating Covered Activities if dormant in sections of the Project Area.
- 6.25. Potential San Joaquin Kit Fox Dens: If potential kit fox den sites are located either during surveys or opportunistically then the Designated Biologist will use an infrared beam camera and track plates or powder, to determine if the den is currently being used. Other signs of occupancy (e.g., scat, fur) will be searched for in and around the burrow and, if found, documented with photographs. The camera and track plates will be placed at the burrow for a minimum of 5 consecutive days and then visually inspected by the Designated Biologist for sign of kit fox on a quarterly basis thereafter either for the term of this ITP or until the den has been permanently impacted by Covered Activities. A 50-foot avoidance buffer shall be used when kit fox occupation is expected but not confirmed.
- 6.26. Confirmed San Joaquin Kit Fox Dens: If a den has been confirmed to be utilized in any way by San Joaquin kit fox, then all Covered Activities shall be immediately halted and the area shall be isolated from human disturbance with a minimum of a 100-foot

buffer surrounding the den. Permittee shall provide a written proposal to CDFW for written approval on specific avoidance and minimization of impacts to the den and its occupants. CDFW must approve the proposal in writing prior to resumption of Covered Activities and entry of personnel or equipment within the 100-foot buffer area.

7. Habitat Management Land Acquisition and Restoration:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for the permanent protection, enhancement and management of the lands known as the "Conservation Easement Area" (see Figure 1) dependent upon CDFW acceptance pursuant to Condition of Approval 7.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.3 below. The Conservation Easement Area is approximately 2,730. The Conservation Easement Area contains approximately 2,687 acres of potential habitat for San Joaquin kit fox and 2,008 acres of potential upland and 8 acres of potential aquatic habitat for California tiger salamander. If CDFW finds these lands are unacceptable, then Permittee shall provide a minimum of 2,700 acres of occupied suitable habitats for Covered Species pursuant to Condition of Approval 7.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.3 below. These lands are hereafter are referred to as Habitat Management (HM) lands. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 8 below for all uncompleted obligations.

7.1. Cost Estimates: CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

- 7.1.1. Land acquisition costs for HM lands identified in Condition of Approval 7.2 below, estimated at \$5,000/acre for 2730 acres: \$13,650,000. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirement.
- 7.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 7.2.5 below, estimated at \$423,000;

- 7.1.3. Interim management period funding as described in Condition of Approval 7.2.6 below, estimated at \$201,198;
- 7.1.4. Long-term management funding as described in Condition of Approval 7.3 below, estimated at \$702/acre for 2730 acres: \$1,916,460. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management;
- 7.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 7.4, estimated at \$4,500.
- 7.2. Habitat Acquisition and Protection: To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:
- 7.2.1. Fee Title/Conservation Easement: Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution, amendment, or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);
- 7.2.2. HM Lands Approval: Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

- 7.2.3. HM Lands Documentation: Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 7.2.4. Land Manager: Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;
- 7.2.5. Start-up Activities: Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking>); (2) conducting a baseline biological assessment and land survey report by June 30, 2022 ; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 7.2.6. Interim Management (Initial and Capital): Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 7.3. Endowment Fund: The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 7.2.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

- 7.3.1. Identify an Endowment Manager: The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4);
- 7.3.2. Calculate the Endowment Funds Deposit: After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-

equivalent analysis (hereinafter “PAR”) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

7.3.2.1. Capitalization Rate and Fees: Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.

7.3.2.2. Endowment Buffers/Assumptions: Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment.

7.3.2.3. 10 Percent Contingency: A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

7.3.2.3.1. Three Years Delayed Spending: The endowment shall be established assuming spending will not occur for the first three years after full funding.

7.3.2.3.2. Non-annualized Expenses: For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

7.3.3. Transfer Long-term Endowment Funds: Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

7.4. Reimburse CDFW: Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

8. Performance Security:

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 7 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 8.1. Security Amount: The Security shall be in the amount of \$16,195,158. This amount is based on the cost estimates identified in Condition of Approval 7.1 above.
- 8.2. Security Form: The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 8.3. Security Timeline: The Security shall be provided to CDFW 30 days before Covered Activities begin.
- 8.4. Security Holder: The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 8.5. Security Transmittal: If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 8.6. Security Drawing: The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 8.7. Security Release: The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
 - Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts

of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Joint and Several Liability:

All terms and conditions of this ITP, including those set forth in the attached MMRP, shall be binding upon each Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, Permittees are jointly and severally liable for performance of all terms, conditions, and obligations of this ITP, including, but not limited to, those set forth in the attached MMRP. Any failure by any Permittee to comply with any term, condition, or obligation set forth in this ITP shall be deemed a failure to comply by all Permittees.

Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

Incidental Take Permit
No. 2081-2018-032-03
TRACY PHASE 2, LLC, TRACY PHASE 3, LLC, TRACY PHASE 4, LLC
TRACY HILLS PROJECT

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090

Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-032-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Stacy Sherman, Acting Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone: (707) 428-2002; R3CESA@wildlife.ca.gov

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090
CESA@wildlife.ca.gov

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Melissa Farinha, Environmental Program Manager
California Department of Fish and Wildlife, Bay Delta Region – 3
2825 Cordelia Road, Suite 100, Fairfield, CA 94534
Telephone (530) 351-4801; Melissa.Farinha@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, City of Tracy. (See generally Pub. Resources Code, §§ 21067, 21069.) The

Incidental Take Permit
No. 2081-2018-032-03
TRACY PHASE 2, LLC, TRACY PHASE 3, LLC, TRACY PHASE 4, LLC
TRACY HILLS PROJECT

lead agency's prior environmental review of the Project is set forth in the Tracy Hills Specific Plan Final Subsequent EIR (SCH No.: 2013102053) dated January 2016 that the City of Tracy certified for the Tracy Hills Specific Plan Project on April 26, 2016. At the time the lead agency certified the EIR and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Environmental Impact Report (SCH No: 2013102053), the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

1. Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
2. Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) [permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 2,730 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of

Incidental Take Permit
No. 2081-2018-032-03
TRACY PHASE 2, LLC, TRACY PHASE 3, LLC, TRACY PHASE 4, LLC
TRACY HILLS PROJECT

this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

3. The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
4. The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
5. All required measures are capable of successful implementation;
6. This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
7. Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
8. Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Tracy Hills Development Area (Area C) and Conservation Easement Area
FIGURE 2	Tracy Hills Land Use Zones Schematic
FIGURE 3	Table of Allowed Uses within Each Zone
FIGURE 4	Firebreak Configuration Options
FIGURE 5	California Tiger Salamander Specially Designated Storm Drain Design Modification Area(s)
FIGURE 6	California Tiger Salamander Aquatic Habitat with Upland Habitat Buffers
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for

	Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Appendix 5B: Tracy Hills HCP – California Red-Legged Frog & California Tiger Salamander Relocation Plan

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 8/27/2021 _____.

DocuSigned by:

Stacy Sherman

692D021D81CA4E7

Stacy Sherman, Acting Regional Manager
Bay Delta Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions.

DocuSigned by:

John Stanek

By: _____

8EAB56BD3C7049B

Date: 8/29/2021 _____

Printed Name: John Stanek _____

Title: AUTHORIZED REPRESENTATIVE _____

Incidental Take Permit
No. 2081-2018-032-03
TRACY PHASE 2, LLC, TRACY PHASE 3, LLC, TRACY PHASE 4, LLC
TRACY HILLS PROJECT

2001-2018-032-03 Figure 1

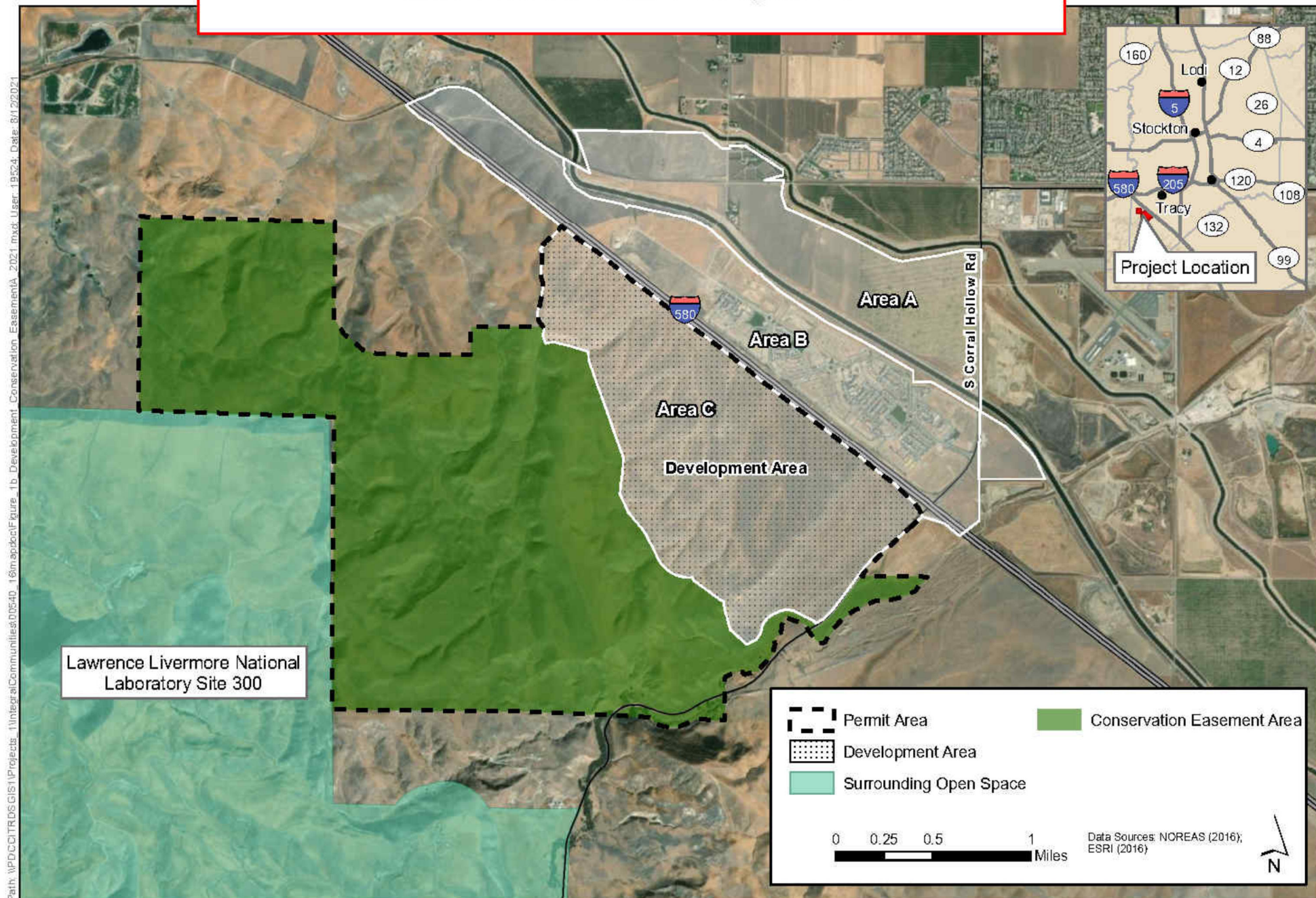
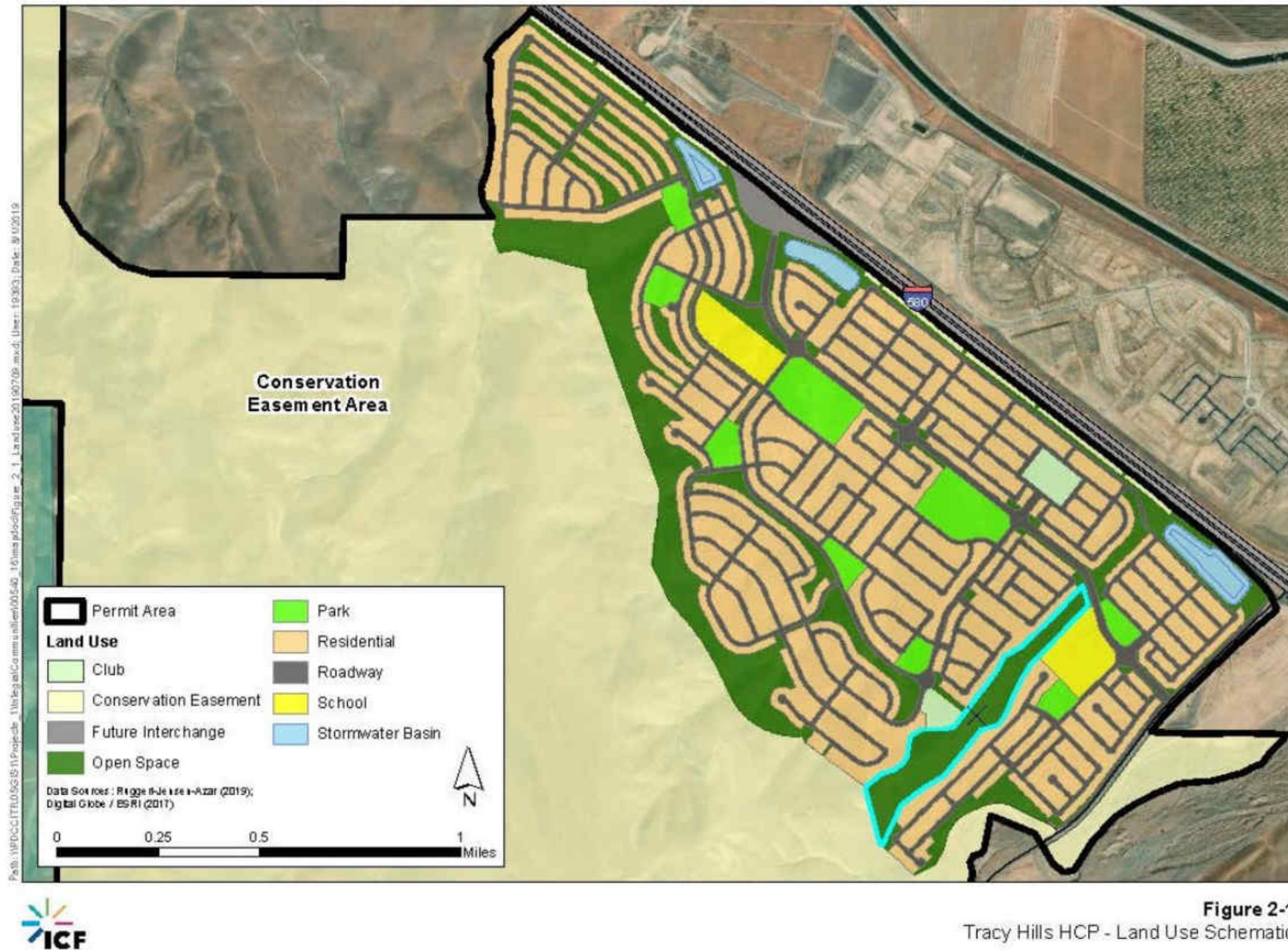


Figure 1b
Tracy Hills Proposed Development Area and Conservation Easement Areas

2081-2018-032-03 Figure 2

Figure 2-1. Tracy Hills HCP: Land Use Schematic



2081-2018-032-03 Figure 3

Table 2-1. Future Potential Uses in Each Development Zone^a

Land Use	Residential Estate	Low-Density Residential	Medium-Density Residential	Mixed-Use Business Park	Commercial
Public utilities	X	X	X	X	X
Crop and tree farming and community gardens	X	X	X	X	X
Single-family dwellings	X	X	X	0	0
Two-family dwellings	0	X	X	0	0
Multi-family dwellings	0	0	0	0	0
Boarding and rooming houses	0	0	0	0	0
Institutional uses with residential accommodations, occupancy load less than six (e.g., foster homes, homes for the aged)	X	X	X	0	0
Educational and institutional uses with residential accommodations, occupancy load of over six (e.g., hospitals, nursing homes)	X	X	X	X	X
Public facilities such as fire stations, playgrounds, schools, art galleries and museums, court houses, public administration buildings, libraries, meeting halls, recreation centers, and athletic fields	X	X	X	X	X
Educational, cultural, institutional, and recreational uses such as private schools and daycare centers, places of assembly, golf courses, private recreational facilities, and private museums	X	X	X	X	X
Specialized recreational and instructional uses such as arts, athletics, dance, and self-defense	0	0	0	X	X
Mobile home parks	0	0	0	X	0
Lodging such as hotels, motels	0	0	0	X	X
Business offices and professional buildings	0	0	0	X	X
Consumer services and retail trade	0	0	0	X	X

2081-2018-032-03 Figure 3 cont.

Land Use	Residential Estate	Low- Density Residential	Medium- Density Residential	Mixed-Use Business Park	Commercial
Eating and drinking establishments (no alcohol or entertainment after 11 p.m.)	O	O	O	X	X
Eating and drinking establishments (alcohol and entertainment after 11 p.m.)	O	O	O	X	X
Vehicle sales service and rental	O	O	O	O	O
Special businesses: animal hospitals and shelters; repair shops, such as lawn mowers, chainsaws; delivery service	O	O	O	O	O
Commercial amusement and entertainment establishments	O	O	O	X	X
Farm equipment sales and services	O	O	O	O	O
Contract construction	O	O	O	O	O
Warehousing and storage	O	O	O	O	O
Recycling collection facilities	O	O	O	O	O
Light manufacturing uses (e.g., electrical appliances, carpentry shops, laboratories, candy, cosmetics, pharmaceuticals, perfumes, soap)	O	O	O	X	O
Intermediate manufacturing uses (e.g. food processing and canning, wineries, breweries, paper products)	O	O	O	O	O
Heavy and very heavy manufacturing uses	O	O	O	O	O

^aX = potential future use, O = no potential future use, based on Tracy Hills Specific Plan (City of Tracy 2016). The Tracy Hills HCP covers development consistent with the Specific Plan, but does not cover these ongoing activities within the Specific Plan area once development is complete.

2081-2018-032-03 Figure 4

Figure 2-3. Tracy Hills Firebreak

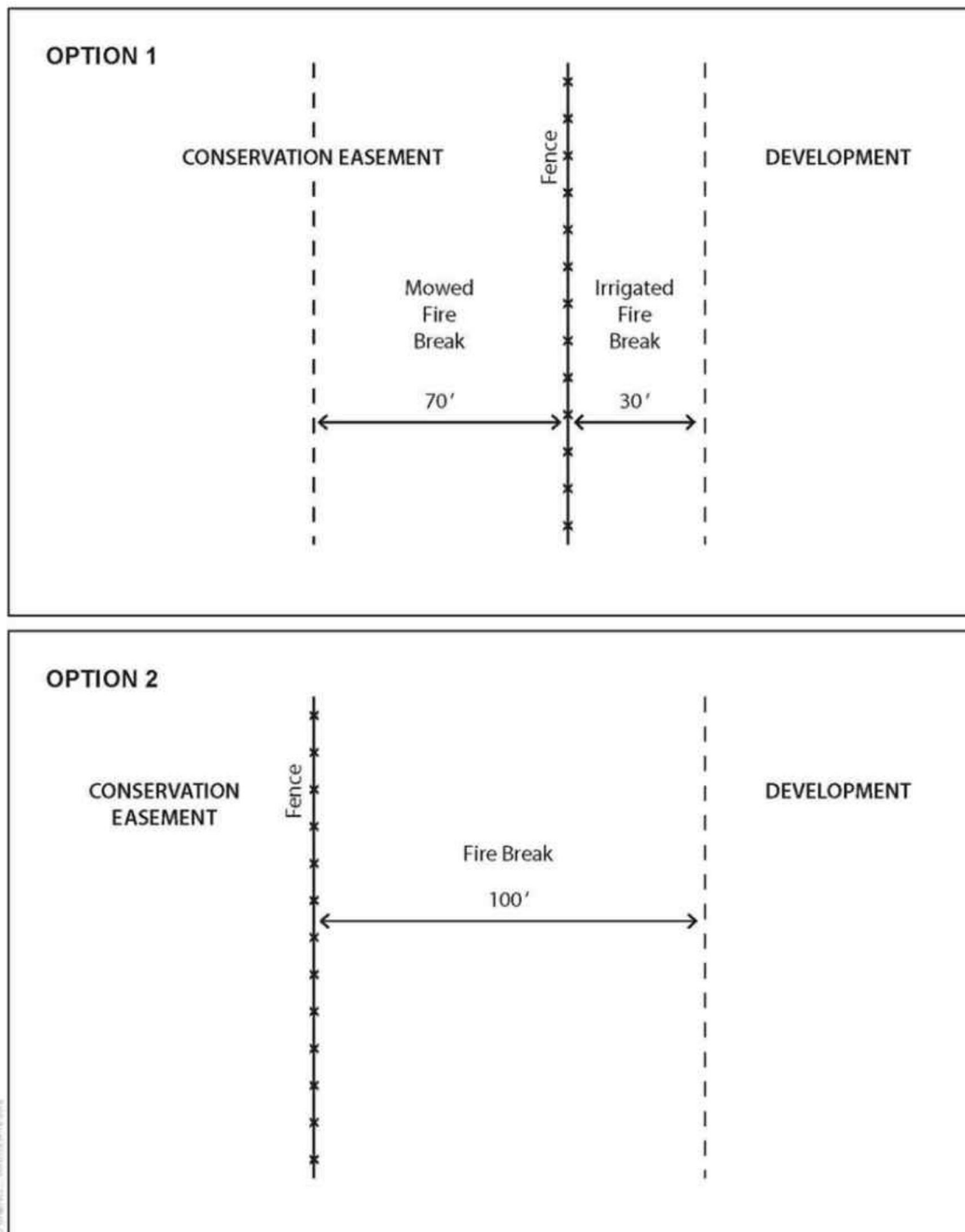
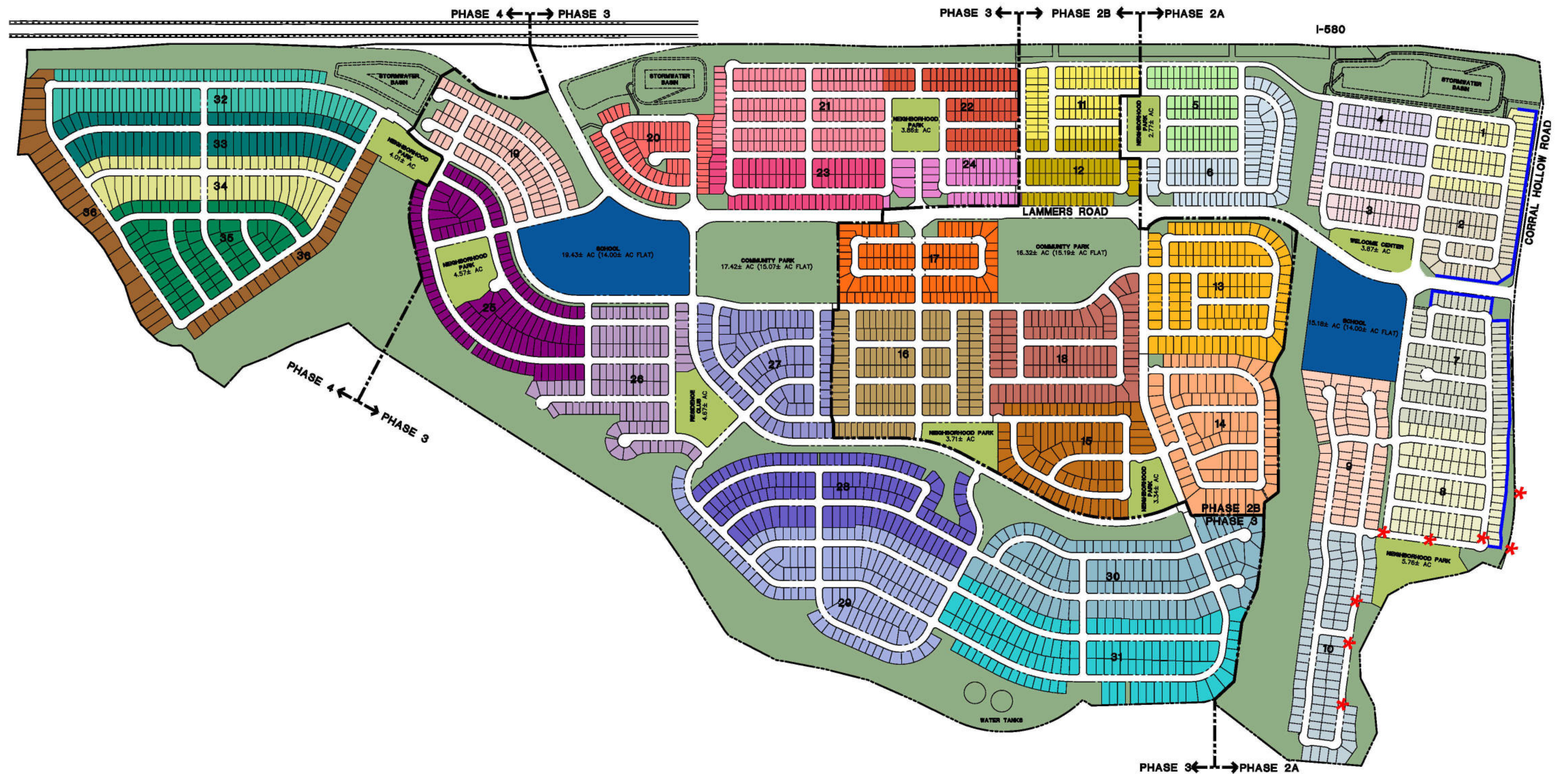


Figure 2-3
Tracy Hills Firebreak

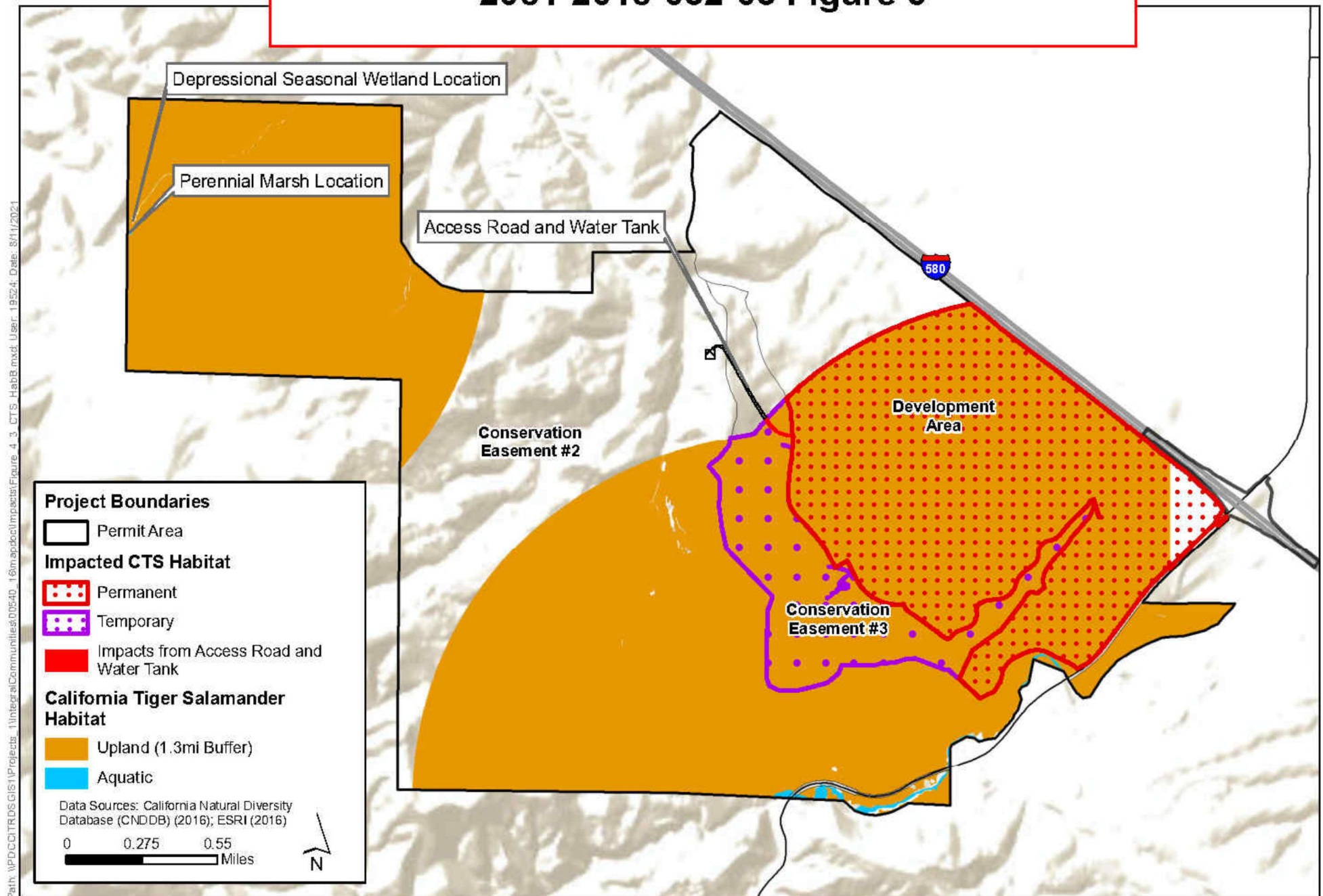


CTS EXHIBIT - ATTACHMENT 1

- LEGEND:**
- * SPECIAL CTS CURB INLET GRATES
 - PHASE LIMITS
 - 31 VILLAGE NUMBER
 - PARK
 - OPEN SPACE
 - SCHOOL
 - MASONRY WALLS



2081-2018-032-03 Figure 6



Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT NO. 2081-2018-032-03**

PERMITTEE: Tracy Phase 2, LLC., Tracy Phase 3, LLC.,
Tracy Phase 4, LLC.

PROJECT: Tracy Hills Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the California Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittee has the primary responsibility for monitoring compliance with all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

CDFW may, at its sole discretion, verify compliance with any mitigation measure or independently assess the effectiveness of any mitigation measure.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Source, Implementation Schedule, Responsible Party, and Status/Date/Initials. The Mitigation Measure column summarizes the mitigation requirements of the ITP. The Source column identifies the ITP condition that sets forth the mitigation measure. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure. The Status/Date/Initials column shall be completed by the Permittee during preparation of each Status Report and the Final Mitigation Report, and must identify the implementation status of each mitigation measure, the date that status was determined, and the initials of the person determining the status.

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION OR DURING CONSTRUCTION					
1	No Impacts to Covered Species Aquatic Breeding Habitat: No direct impacts to Covered Species aquatic breeding habitat within the Development Area from construction-related activities (e.g., stormwater outfalls, road improvements) are authorized under this ITP. Permittee shall apply for an amendment to this ITP and provide specific designs or other plans for these types of impacts when designs are able to be provided. Upon receipt of an amendment request CDFW shall evaluate any additional impacts and provide additional Conditions of Approval if necessary and require compensatory mitigation to meet the full mitigation standard.	ITP Condition # 4.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Representative: Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 4.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
3	Designated Biologist: Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 4.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
4	Designated Biologist Authority: To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 4.4	Entire Project	Permittee	
5	Education Program: Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area greater than a 12-month period. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout (printed in both English and Spanish) containing this information for workers to carry in the Project Area. The training handout shall contain the following information: Descriptions of the Covered Species (including photographs) and their habitat needs. A current report of the occurrences of the Covered Species in the Project Area.	ITP Condition # 4.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>An explanation of the protected status of each Covered Species under the federal and state endangered species acts and legal obligations.</p> <p>Avoidance and minimization measures that will be followed to reduce impacts on the Covered Species during all Project activities: construction, operations and maintenance, and decommissioning, and the penalties for not following the avoidance and mitigation measures.</p> <p>Instructions on the procedures that will be implemented if a Covered Species is found on-site, including contact information of a biological monitor and U.S. Fish and Wildlife Service (USFWS) personnel.</p>				
6	Construction Monitoring Binder: The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project Area upon request by CDFW.	ITP Condition # 4.6	Before commencing ground- or vegetation-disturbing activities / Entire Project		
7	Trash Abatement: Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of Covered Activities. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week during Covered Activities to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 4.7	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	Dust Control: Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles for longer than 24 hours.	ITP Condition # 4.8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
9	Erosion Control Materials: Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 4.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
10	Delineation of Property Boundaries: Before starting Covered Activities along each part of the route in active construction for each phase, Permittee shall clearly delineate the boundaries of the area to be disturbed for development for the specific phase within the Development Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area for each phase.	ITP Condition # 4.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
11	Delineation of Habitat: Prior to construction, the Permittee shall stake, flag, fence or otherwise conspicuously delineate all environmentally sensitive areas that are to be protected in place and remain undisturbed during construction, including the boundaries between the Development Area and the Conservation Easement Area. The Permittee shall also delineate the boundary of the work area for each Project Phase as they occur. Environmentally sensitive areas are defined as wetland, riparian areas, aquatic areas, and raptor nesting locations. The materials used to delineate environmentally sensitive areas will be removed no later than 30 days following completion of construction.	ITP Condition # 4.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
12	Project Access: Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to	ITP Condition # 4.12	Before commencing ground- or vegetation-disturbing activities /	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. Project-related construction vehicles will observe a daytime on-site speed limit of 20-mph, except on County and City roads and State and Federal highways. All Project-related traffic will observe a night-time speed limit of 10-mph during construction, except on County and City roads and State and Federal highways. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.		Entire Project		
13	Staging Areas: Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area.	ITP Condition # 4.13	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
14	Hazardous Waste: Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 4.14	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
15	CDFW Access: Permittee shall provide CDFW staff with reasonable access to the Project Area and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 4.15	Entire Project	Permittee	
16	Refuse Removal: Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 4.16	End of each Project phase	Permittee	
17	No Pets: With the exception of livestock or working animals used by the CDFW-approved long-term land manager and as described in the final management plan (see Condition of Approval 7.2, Habitat Acquisition and Protection), no domestic animals shall be allowed within the Project Area unless on leash and restricted to designated vehicle parking areas during Covered Activities.	ITP Condition # 4.17	Entire Project	Permittee	
18	No Loaded Firearms: With the exceptions of law enforcement officers, grazing operators, the CDFW-approved long-term land manager or non-commercial hunting activities as described in the allowed uses of the final management plan (see Condition of Approval 7.2, Habitat Acquisition and Protection), no unsecured (i.e., locked up) or loaded firearms shall be allowed within the Project Area at any time.	ITP Condition # 4.18	Entire Project	Permittee	
19	Pesticides: No rodenticides or herbicides shall be used within the Project Area until Covered Activities have been completed or in the Conservation Easement Area unless specifically approved in the final management plan required in Condition of Approval 7.2 (Habitat Acquisition and Protection) or in writing by CDFW.	ITP Condition # 4.19	Entire Project	Permittee	
20	Urban/Suburban Storm Drain Designs and Construction for Areas Adjacent to Natural Lands: To prevent one-way entrainment of Covered Species in specially designated area(s) (Figure 5), Permittee shall ensure that grated drop inlets or other types of storm drain infrastructure shall be	ITP Condition # 4.20	Entire Project	Permittee/CDFW	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	constructed in a manner or outfitted with devices to prevent entrainment. Permittee shall obtain written acceptance from CDFW confirming that the infrastructure incorporates design elements to avoid and reduce impacts to Covered Species prior to installation of such infrastructure.				
21	Submit Designs for Storm Water Infrastructure: Permittee shall submit the plans for storm water-related infrastructure to CDFW for written acceptance prior to Covered Activities occurring for each Project Phase. Infrastructures shall be designed and constructed to prevent conflicts with or take of Covered Species.	ITP Condition # 4.21	Entire Project	Permittee/CDFW	
22	Development Area Lighting: All lighting shall be designed so that exterior light fixtures are hooded, with lights directed downward or toward the area to be illuminated, with little to no horizontal spread, as low to the ground as feasible and so that backscatter to the nighttime sky is minimized. The design of the lighting will be such that the luminescence or light sources are shielded to prevent light trespass outside the Development Area boundary and neither the lamp nor the reflector interior surface would be visible from outside the footprint of the Development Area except for public roadways. Only narrow spectrum bulbs shall be used to limit the range of species affected by lighting. All lighting will be of minimum necessary brightness consistent for worker safety. The number of lighting fixtures on buildings and roadways shall be limited to the minimum required by the City of Tracy.	ITP Condition # 4.22	Entire Project	Permittee	
23	Notification Before Commencement: The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities each Project Phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities for each Project Phase.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
24	Notification of Non-compliance: The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 5.2	Entire Project	Permittee	
25	Daily Compliance Monitoring: The Designated Biologist shall be on-site daily while Covered Activities occur. This requirement does not apply to allowed activities identified in the final management plan within the Easement Area once approved by CDFW. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) obtain photo documentation of Project Area conditions; (5) check all exclusion zones; and (6) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. Daily compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW per Condition of Approval 5.4 (Weekly Compliance Monitoring).	ITP Condition # 5.3	Entire Project	Permittee	
26	Weekly Compliance Monitoring: During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW for each Project Phase. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the exclusion fencing.	ITP Condition # 5.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	Monthly Compliance Report: The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 5.3 and 5.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be certified by the Designated Biologist (i.e., signed) and submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Bay Delta Region Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Melissa Farinha (Melissa.Farinha@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 5.5	Entire Project	Permittee	
28	Annual Status Report: Permittee shall provide CDFW with an Annual Status Report (ASR) no later than March 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for the year identified; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 5.6	Entire Project	Permittee	
29	CNDDDB Observations: The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 5.7	Entire Project	Permittee	
30	Seasonal Work Window Restriction: It is anticipated that the initial ground disturbance (such as excavation, clearing and grubbing) for Phase I will take place during the rainy season (October 15, 2021, through April 1, 2022, and that Covered activities shall be subject to Condition of Approval 6.4 below. After April 1, 2022, Permittee shall limit Covered Activities that will result in either initial ground disturbance (such as excavation, grading, trenching, contouring, or clearing and grubbing) from April 1 through October 31. Once habitat has been removed and exclusion fencing is in place, activities within the exclusion fencing may occur year-round. If areas have become fallow after initial disturbance and grasses, shrubs have become reestablished, then Covered Activities shall only resume during the period from April 1 through October 31, within California tiger salamander habitat areas delineated in Figure 6 and shall only occur outside this work window after habitat (including ground squirrel and gopher burrows) is removed and exclusion fencing is in place.	ITP Condition # 6.1	Entire Project	Permittee	
31	Daily Work Window Restriction: All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise unless otherwise approved by the Designated Biologist. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area	ITP Condition # 6.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	(http://aa.usno.navy.mil/data/docs/RS_OneYear.php).				
32	<p>Seasonal Work Window Extensions: Permittee shall adhere to the seasonal work window required in Condition of Approval 6.1 unless an expanded work window is approved by CDFW. Permittee shall submit any requests for extensions in writing at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If work is approved the following conditions shall apply:</p> <p>Any work site located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with a temporary wildlife exclusion barrier with coverboards (see Measure 6.11). All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.</p> <p>All construction vehicle and heavy equipment travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible.</p> <p>The temporary exclusion barrier shall be installed around any areas within the Development Area of each Project Phase that could become ponded (for more than 24-hours) and provide breeding habitat during rain events. Coverboards shall be placed around the inside and outside perimeter of the temporary exclusion barrier as described in Condition of Approval 6.11.</p>	ITP Condition # 6.3	Entire Project	Permittee	
33	<p>Wet Season Work Restriction: If CDFW has approved a seasonal work window extension per Condition of Approval 6.3, then, during the wet season between October 15 through April 30, Covered Activities shall cease 24 hours prior to a 30 percent or greater forecast of rain. Construction may continue 24 hours after the rain ceases and there is less than a 30 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 30 percent or more chance of precipitation in the 24-hour forecast subject to full implementation of Condition of Approval 6.6 and the following condition:</p> <p>If work is approved when a greater than 30 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project Area where Covered Activities are planned before they begin each day rain is forecast. If rain exceeds 0.50 inches during a 24-hour period, work shall cease until there is a less than 30 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain event.</p>	ITP Condition # 6.4	Entire Project	Permittee	
34	Erosion Control: All erosion and sediment control measures shall be installed prior to earth moving Covered Activities. Permittee shall utilize erosion control measures throughout each Project Phase where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.	ITP Condition # 6.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
35	No Project Phase without Erosion Control: No Project Phase may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that construction phase may cause the introduction of sediments into a drainage, stream, or pond. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream.	ITP Condition # 6.6	Entire Project	Permittee	
36	Geo-Textile and Monofilament Netting Restriction: To minimize the risk of ensnaring and strangling wildlife, Permittee shall not place erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting. Any geo-textile material or filter fabric used within the Project Area shall not any contain petroleum-based products. Geotextiles, fiber rolls, and other	ITP Condition # 6.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves. No geotextile fabrics shall be placed where they may be exposed to stream flows				
37	Location of Spoil Sites: Spoil sites shall not be located where it may be washed back into a watercourse or within any potential Covered Species habitat throughout the Project Area.	ITP Condition # 6.8	Entire Project	Permittee	
38	Cover Spoil Piles: Prior to construction of a Project Phase, Permittee shall submit the Project's Stormwater Pollution and Prevention Plan and Dust Control Permit Plan for that Project Phase and comply with each plan's requirements. Permittee shall take any necessary precautions to prevent loose soils or dust from entering streams or stormwater infrastructure that discharges into streams.	ITP Condition # 6.9	Entire Project	Permittee	
39	<p>Temporary Exclusion Barrier: At least 30 days prior to the initiation of Covered Activities on each Project Phase, the Permittee shall submit to CDFW for written approval plans for an exclusion fencing system for the upcoming active phase, and access routes as appropriate. CDFW has 30 days to respond to each submission of plans, including resubmission of plans that are revised at the request of CDFW. The plans shall include a map indicating location of exclusion fencing in relation to the Project Area, the Project Phase that will be constructed, location of special-status wildlife habitat features, dimension specifications and a description of fencing materials. Permittee shall be responsible for implementation and upkeep of the fencing system. In addition, the following criteria for the exclusion fencing system shall be met:</p> <p>The exclusion fencing shall consist of material appropriate for exclusion of Covered Species.</p> <p>There shall be a section of exclusion fencing placed between disturbance areas and aquatic habitat for California tiger salamander along Corral Hollow Creek to prevent individuals from entering any slated ground disturbance areas from the creek.</p> <p>The exclusion fencing shall either measure at least 36 inches tall above the soil surface or be of an appropriate height for exclusion of the Covered Species.</p> <p>The Designated Biologist shall inspect the fencing immediately after every rain event to ensure it maintains structural integrity. Holes or burrows which appear to extend under the fencing will be blocked inside the fence line to prevent California tiger salamander from accessing work areas.</p> <p>The bottom of the exclusion fencing shall not allow wildlife to pass through gaps or holes with the bottom of the fencing buried six inches below grade.</p> <p>The exclusion fencing shall be taut between the supporting stakes and shall have the supporting stakes oriented on the inside edge towards the development areas.</p> <p>The exclusion fencing shall feature coverboards inside and outside the perimeter placed at 100-foot intervals and one-way escape doors or an appropriate design for preventing special-status species and other wildlife from being trapped within a Project Phase that is under active construction.</p> <p>The fencing and coverboards shall be inspected every morning for trapped California tiger salamanders during periods when they are likely to be migrating above-ground. These daily-inspection periods include the period from May 1 through August 31 when salamander metamorphs are likely to be migrating away from their natal ponds, and all year on mornings following any rain event greater than 0.1 inches, when adults may be migrating to their breeding ponds. If a California tiger salamander is encountered during these inspections, and is in danger</p>	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>of being harmed, then the Designated Biologist shall temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the pre-approved location as described in the Covered Species Relocation Plan (Condition of Approval 6.12).</p> <p>If fencing becomes damaged, it will be immediately repaired upon detection and the Designated Biologist shall stop work in the vicinity of the fencing as needed to ensure that no California tiger salamanders have entered the construction area.</p> <p>Fencing system entry/exit points for vehicular and pedestrian traffic shall be constructed so wildlife cannot access the area within a Project Phase under active construction during non-work hours.</p> <p>The Designated Biologist shall inspect the Project Area prior to installation of the exclusion fencing. The exclusion fencing system shall remain in place until all construction activities have been completed in the corresponding Project Phase. All components of the exclusion fencing will be removed for storage or disposal off-site immediately upon completion of construction activities. All vegetation slated for removal in the exclusion fencing buffer area shall be inspected by a Designated Biologist prior to the initiation of removal. Exclusion fencing shall be inspected daily by the Designated Biologist and repaired as necessary, including inspection of coverboards and replacement of wetted sponges as necessary to minimize wildlife distress.</p>				
40	Covered Species/Conservation Easement Area Permanent Fencing: Permittee shall provide a Covered Species/Conservation Easement Area Fencing Plan a minimum of 30 days prior to commencing any Covered Activities for approval in writing by CDFW. Fencing structures identified in the plan shall be installed either according to the approved plan or prior to commencement of Covered Activities for each phase, and shall be completed in its entirety (i.e., spans the interface between the Development Area and the Conservation Easement Area) (see Figure 1) by the end of the year 2025. The Permittee shall ensure any permanent fencing is monitored and maintained. Permittee shall ensure that permanent barriers or fencing installed between fully developed areas and Covered Species habitat are maintained in perpetuity.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities /completed by December 31, 2025	Permittee	
41	Covered Species Relocation: If a California tiger salamander is encountered during these inspections, and is in danger of being harmed, the Designated Biologist shall temporarily stop all activities that threaten harm, remove the animal from the area, and relocate it to the pre-approved relocation location as described in Attachment 5. California tiger salamanders that will be relocated and released by the Designated Biologist outside the construction area, preferably within 300 feet of where it was found, in protected suitable habitat in the Conservation Easement Area. Under no circumstances will a California tiger salamander be released on a site other than the Conservation Easement Area unless the written permission of the landowner has been obtained prior to the start of construction of each phase.	ITP Condition # 6.12	Entire Project	Permittee	
42	Avoidance or Treatment of Burrows: All mammal burrows within the Development Area that cannot be avoided shall be hand-excavated and collapsed so that they do not attract California tiger salamanders or San Joaquin kit fox during Covered Activities. This shall occur prior to and during the clearing and grubbing phase of each Project Phase.	ITP Condition # 6.13	Entire Project	Permittee	
43	Open Trenches, Pits or Holes: Any open trenches, pits, holes or other excavations into which Covered Species may fall or become trapped shall either be covered if feasible or have wildlife escape ramps installed as determined by the Designated Biologist at the end of each workday. Prior to the initiation of construction each day and prior to the covering trenches, holes or pits, the Designated Biologist or Biological Monitor shall inspect them for wildlife for movement out of harm's way.	ITP Condition # 6.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	Open Pipes Restriction: All pipes, culverts, or similar structures with a 4-inch or greater diameter that are stored on-site for one or more overnight periods shall be securely capped on both ends prior to storage when feasible and thoroughly inspected for wildlife by the Designated Biologist or Construction Monitor prior to utilization. All hollow pipes or posts after they are installed as part of the Project and exposed to the environment shall be capped, screened, or filled with material by Permittee prior to the end of the day in which installation occurs.	ITP Condition # 6.15	Entire Project	Permittee	
45	Notification of Mortality or Injury: Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within three calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 6.16	Entire Project	Permittee	
46	Handling of California Tiger Salamanders: California tiger salamanders shall be handled and assessed according to The Declining Amphibian Task Force Fieldwork Code of Practice available online at: https://www.fws.gov/southwest/es/NewMexico/documents/SP/Declining_Amphibian_Task_Force_Fieldwork_Code_of_Practice.pdf .	ITP Condition # 6.17	Entire Project	Permittee	
47	<p>Injured or Dead California Tiger Salamanders: If an injured California tiger salamander is found during the term of this ITP, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts, then the following steps shall be taken:</p> <p>If the injury is minor or healing and the salamander is likely to survive as determined by the Designated Biologist, the salamander shall be released immediately in accordance with the Condition of Approval 6.21.</p> <p>If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved wildlife rehabilitation or veterinary facility. If taken into captivity, the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.18.</p> <p>If the California tiger salamander is found recently deceased (as evidenced by lack of odor or decomposition), a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. CDFW shall be consulted on specimen disposal.</p>	ITP Condition # 6.18	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
48	California Tiger Salamander Relocation During Project Construction: The Designated Biologist shall relocate any California tiger salamander found within the Development Area to an active rodent burrow system nearest to aquatic habitat within the Conservation Easement Area. The California tiger salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and approved by CDFW prior to the start of Covered Activities. The Designated Biologist shall document both locations by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW Representative within 24 hours of Covered Species Relocation.	ITP Condition # 6.19	Entire Project	Permittee	
49	San Joaquin Kit Fox Sightings: Any sightings of San Joaquin kit fox within or surrounding the Project Area shall be immediately reported to CDFW's Regional Contact. Any San Joaquin kit fox found within the Project Area shall be allowed to disperse on their own unless otherwise approved in writing by CDFW for specific individuals.	ITP Condition # 6.20	Entire Project	Permittee	
50	San Joaquin Kit Fox Injury: If a San Joaquin kit fox is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured San Joaquin kit fox. The Permittee shall notify CDFW of the injury to the San Joaquin kit fox immediately by telephone and e-mail followed by a written incident report. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 6.21	Entire Project	Permittee	
51	Clearance Surveys: The Designated Biologist shall survey potential habitat features, such as aquatic and upland areas, and beneath woody debris, for California tiger salamander and for previously unidentified potential San Joaquin kit fox dens during clearing, grubbing and initial site grading. If vegetation or fossorial mammal burrows become reestablished in a previously disturbed area, then the Designated Biologist shall resurvey these areas prior to conducting Covered Activities to ensure Covered Species are not in harm's way. If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 6.20). If the Designated Biologist(s) or anyone else discovers a potential San Joaquin kit fox den, then the status of the den shall be determined per methods outlined in Condition of Approval 6.26.	ITP Condition # 6.22	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
52	Augering and Excavation Surveys: The Designated Biologist shall survey all augering and excavation soils material originating from up to 6-feet below grade in potential California tiger salamander habitat. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.	ITP Condition # 6.23	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
53	San Joaquin Kit Fox Den Surveys: No less than 14 days and no more than 30 days before Covered Activities begin the Designated Biologist shall conduct and direct walking transect surveys to detect potential San Joaquin kit fox dens in the Project Area. The Designated Biologist shall ensure that walking transects are conducted such that 100% visual coverage of the Project Area is achieved. The Designated Biologist shall adjust the transect width based upon vegetation height, topography, and other factors to facilitate the detection of dens and other sign. The Designated Biologist shall use the walking transects to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. The status of all dens shall be determined and mapped within the Project Area	ITP Condition # 6.24	Before commencing ground- or vegetation-disturbing activities / Entire Project		

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	(including the Conservation Easement Area). Potential dens will be considered to be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox. For areas within the Development Area that are either vegetated, become vegetated, or where mammal burrows become established or remain undisturbed by Covered Activities, den surveys shall be performed prior to initiating Covered Activities or re-initiating Covered Activities if dormant in sections of the Project Area.				
54	Potential San Joaquin Kit Fox Dens: If potential kit fox den sites are located either during surveys or opportunistically then the Designated Biologist will use an infrared beam camera and track plates or powder, to determine if the den is currently being used. Other signs of occupancy (e.g., scat, fur) will be searched for in and around the burrow and, if found, documented with photographs. The camera and track plates will be placed at the burrow for a minimum of 5 consecutive days and then visually inspected by the Designated Biologist for sign of kit fox on a quarterly basis thereafter either for the term of this ITP or until the den has been permanently impacted by Covered Activities. A 50-foot avoidance buffer shall be used when kit fox occupation is expected but not confirmed.	ITP Condition # 6.25	Entire Project	Permittee	
55	Confirmed San Joaquin Kit Fox Dens: If a den has been confirmed to be utilized in any way by San Joaquin kit fox, then all Covered Activities shall be immediately halted and the area shall be isolated from human disturbance with a minimum of a 100-foot buffer surrounding the den. Permittee shall provide a written proposal to CDFW for written approval on specific avoidance and minimization of impacts to the den and its occupants. CDFW must approve the proposal in writing prior to resumption of Covered Activities and entry of personnel or equipment within the 100-foot buffer area.	ITP Condition # 6.26	Entire Project	Permittee	
56	Cost Estimates: CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows: Land acquisition costs for HM lands identified in Condition of Approval 7.2 below, estimated at \$5,000/acre for 2730 acres: \$13,650,000. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirement. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 7.2.5 below, estimated at \$423,000; Interim management period funding as described in Condition of Approval 7.2.6 below, estimated at \$201,198; Long-term management funding as described in Condition of Approval 7.3 below, estimated at \$702/acre for 2730 acres: \$1,916,460. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management; Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 7.4, estimated at \$4,500.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
57	Habitat Acquisition and Protection: To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
58	Fee Title/Conservation Easement: Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution, amendment, or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);	ITP Condition # 7.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
59	HM Lands Approval: Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition # 7.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
60	HM Lands Documentation: Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition # 7.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
61	Land Manager: Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;	ITP Condition # 7.2.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
62	Start-up Activities: Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://www.wildlife.ca.gov/Conservation/Planning/Banking); (2) conducting a baseline biological assessment and land survey report by June 30, 2022 ; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition # 7.2.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
63	Interim Management (Initial and Capital): Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes	ITP Condition # 7.2.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.		of issuance of the ITP if Security is provided)		
64	<p>Endowment Fund: The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 7.2.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p> <p>Identify an Endowment Manager: The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4);</p>	ITP Conditions # 7.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
65	Calculate the Endowment Funds Deposit: After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands	ITP Conditions # 7.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	(Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.		of issuance of the ITP if Security is provided)		
66	Capitalization Rate and Fees: Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions # 7.3.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
67	Endowment Buffers/Assumptions: Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment.	ITP Conditions #7.3.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
68	10 Percent Contingency: A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. Three Years Delayed Spending: The endowment shall be established assuming spending will not occur for the first three years after full funding. Non-annualized Expenses: For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.	ITP Conditions # 7.3.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
69	Transfer Long-term Endowment Funds: Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions # 7.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
70	Reimburse CDFW: Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Conditions # 7.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
71	Performance Security. The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 7 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows: Security Amount: The Security shall be in the amount of \$16,195,158. This amount is based on the cost estimates identified in Condition of Approval 7.1 above. Security Form: The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>the General Counsel.</p> <p>Security Timeline: The Security shall be provided to CDFW 30 days before Covered Activities begin.</p> <p>Security Holder: The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal: If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>Security Drawing: The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> <p>Security Release: The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>				
POST-CONSTRUCTION					
74	<p>Final Mitigation Report: No later than 45 days after completion of all mitigation measures after all Project Phases are complete, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; for each phase (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.</p>	ITP Condition # 5.8	Post-construction and after completion of mitigation	Permittee	

ATTACHMENT 2A
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite the Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the ☐ Conservation Easement OR ☐ Grant Deed

Documents in this package include:

☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed with legal description stamped by a licensed surveyor. Date executed: _____

☐ Proposed Lands for Acquisition Form (PLFAF)

☐ Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)

☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

☐ a plot or map of easements/encumbrances on the property

☐ Policy of Title Insurance (an existing title policy is not acceptable)

☐ County Assessor Parcel Map(s) for subject property

☐ Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

☐ Permit _____ Other: _____
(write in type of permit)

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)

☐ Biological Resources Report

☐ Draft Summary of Transactions ☐ hard copy ☐ electronic copy (both are required)



**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")**

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel(s) of land be considered for approval by the California Department of Fish and Wildlife as suitable for purposes of habitat management lands to compensate the adverse environmental impacts of the Project:

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
-------------------	-----------------	--------------	---------------	--------------

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ____

By: _____
Regional Manager's Signature

DATE: _____

REJECTED ____

Region: _____

Explanation: _____

[Financial institution letterhead]

IRREVOCABLE STANDBY LETTER OF CREDIT
NO. **[number issued by financial institution]**

Issue Date: **[date]**

Beneficiary:

Department of Fish and Wildlife
Habitat Conservation Planning Branch
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Contract Coordinator

Amount: U.S. \$**[dollar number]** **[(dollar amount)]**

Expiry: **[Date]** at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, **[name of applicant]** ("Applicant"), we, **[name of financial institution]** ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$**[dollar number]** **[(dollar amount)]** ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by CDFW to the Applicant on **[date]** (No. **[number]**) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements, as set forth in Conditions **[numbers]** in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A,

which is attached hereto, at our office located at [***name and address of financial institution***].

6. The Certificate shall be completed and signed by an “Authorized Representative” of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An “Authorized Representative” shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW’s Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat

Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract Coordinator; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date.
18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[***Name of financial institution***]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [*number issued by financial institution*]
CERTIFICATE FOR DRAWING

To:

[*Name and address of financial institution*]

Re: [*Insert: "Lake" or "Streambed"*] Alteration Agreement (No. [*permit number*])

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. [*Insert one of the following statements: "In the opinion of CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." or "As set forth in paragraph 13, the Issuer has informed CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by CDFW to replace the Credit."*]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. CDFW is therefore making a drawing under the Credit in amount of U.S. \$_____.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, CDFW has executed and delivered this Certificate as of the ____ day of [*month*], [*year*].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[*Insert one of the following: "DIRECTOR" or "GENERAL COUNSEL" or "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]" or "BRANCH CHIEF, HABITAT CONSERVATION PLANNING BRANCH"*]

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. **[number issued by financial institution]**
CERTIFICATE FOR CANCELLATION

To:

[Name of financial institution and address]

Re: **[Insert: "Lake" or "Streambed"]** Alteration Agreement (No. **[permit number]**)

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. CDFW therefore requests the cancellation of the Credit.

Therefore, CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of **[month]**, **[year]**.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[Insert one of the following: "DIRECTOR" **or** "GENERAL COUNSEL" **or** "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]" **or** "BRANCH CHIEF, HABITAT CONSERVATION PLANNING BRANCH"]

State of California - Department of Fish and Wildlife

MITIGATION PAYMENT TRANSMITTAL FORM

DFW 1057 (NEW 07/28/17)

Project Applicant Instructions: Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and ASB Mitigation Tracking Number (if available) on the attached payment type.

1. DATE: _____ TO: _____ Regional Manager _____ Region Office Address	2. FROM: _____ Name _____ Mailing Address _____ City, State, Zip _____ Telephone Number/FAX Number
3. RE: _____ Project Name as appears on permit/agreement	

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)
☐ 2081 Permit ☐ Conservation Bank ☐ 2835 NCCP ☐ 1802 Agreement ☐ 1600 Agreement ☐ Other _____

 Project Tracking Number
5. PAYMENT TYPE (One check per form only): The following funds are being remitted in connection with the above referenced project:Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

a. Endowment: for Long-Term Management Subtotal \$ _____

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

ACCOUNTING OFFICE USE ONLY	
Description	FI\$Cal Coding
Speedchart (Project, Program, Reference, Fund)	
Reporting Structure	
Category	
Date Established: _____ By: _____	

Appendix 5B

Tracy Hills HCP – California Red-Legged Frog & California Tiger Salamander Relocation Plan

Relocation Plan

In order to prevent the possible spread of disease or injury to CRLF and CTS, the biological monitors¹ will follow the guidance in USGS's *Restraint and Handling of Live Amphibians* (February 16, 2001) and the *Declining Amphibian Task Force's Fieldwork Code of Practice* (1998) (Attachments 5G-1 and 5G-2) during all relocation activities.

If a CRLF or CTS is encountered in the construction area, the following steps will be taken to ensure any impacts on CRLF or CTS are avoided and minimized.

1. If a CRLF or CTS is in imminent danger in the ground disturbing area/earth moving work, all work within 50 feet of the CRLF or CTS will stop immediately and the agency-approved biological monitor will relocate the CRLF and CTS. Biological monitors will be approved by the agencies before working on the job site.
2. If it is safe to do so, the biological monitor, will use bare and clean hands² to retrieve the CRLF or CTS and place it in a hard plastic lined container (e.g. cooler or 2 gallon bucket) with a locking lid and predrilled air holes with a wet sponge in the bottom and will only be handled for a quick assessment of health. CRLF and CTS will be handled and assessed according to the *Restraint and Handling of Live Amphibians* so that injury and distress are minimized. Snout to vent measurements will be taken if the animal is not impaired.

¹ Biological monitors will be familiar with CRLF and CTS identification and habitat requirements. All biological monitors will be approved by CDFW and USFWS. The resumes of biological monitors will be submitted to the USFWS and CDFW for approval at least 14 days prior to start of project construction. The biological monitors are the only individuals who will be allowed to handle and relocate CRLF and CTS. The biological monitors (referred to as a Designated Biologist by CDFW) will be responsible for conducting environmental awareness training about CRLF and CTS, performing preconstruction CRLF and CTS clearance surveys, and monitoring vegetation clearing and ground disturbing work. The monitor is responsible for completing a daily monitoring log for submittal with the Tracy HCP annual monitoring report. The daily log will document hours of monitoring, any CTS or CRLF observed, and whether CTS or CRLF were relocated.

The preconstruction CRLF and CTS clearance surveys will be conducted according to the avoidance and minimization measures described Section 5.3 of the Tracy Hills HCP. If CRLF or CTS are observed during the preconstruction survey, they will be moved according to this Relocation Plan.

² The biological monitor will not use soaps, oils, creams, lotions, repellents, or solvent of any sort on their hands within two hours before and during periods when they are capturing and relocating covered species.

3. The biological monitor will obtain location coordinates, take a photograph of where the CRLF or CTS was found and record the events that occurred and the animal's behavior.
4. If no injuries are observed, the CRLF or CTS will be relocated into the adjacent Tracy Hills Preserve, within 300 feet of aquatic habitat. The biological monitor will record the location of the relocated individual using Lat/Long, and will photograph the individual, the relocation burrow/habitat, and the surroundings.
5. The relocation site with the relocated CRLF or CTS will be monitored for a minimum of 10 minutes and until the biological monitor feels confident the relocated individual does not attempt to exit the burrow or return to the construction area. The onsite biologist will determine the amount of time needed to monitor the relocated individual based on field conditions. Any ground disturbing construction activities will cease until the biological monitor can return to the work area. The relocation site will be spot-checked for the remainder of the day to ensure the CRLF or CTS is not imperiled by predators or other dangers.
6. If the CRLF or CTS is injured, the biological monitor will assess the injury. If the injury does not appear to be life threatening, the biologist will relocate the individual as described in Condition 5 above. If the injury appears to be life threatening, the biological monitor, or CDFW/USFWS approved project personnel will transport the individual to the Lindsay Wildlife Museum or another CDFW/USFWS-approved facility for handling CRLF or CTS. Ground disturbing construction activities will cease while the biological monitor is offsite transporting the injured animal. If taken into captivity, the rehabilitation facility will ensure the individual will remain in captivity and will not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and USFWS.

Lindsay Wildlife Museum

1931 1st Ave

Walnut Creek, CA 94597

Phone: (925) 935-1978

Hours: 10:00 am to 5:00 pm Wednesday - Sunday

7. Following any relocation of a CRLF or CTS, the biological monitor's notes or a monitoring summary, a map showing the location of the encountered individual and the relocation site, close up photographs of the individual and any potential injuries, photographs of the habitat where the individual was found and where it was relocated, and a description of why the habitat was deemed suitable at the time of relocation will be sent to USFWS and CDFW within 24 hours of the relocation. In the event of injury or death, the biological monitor will also provide CDFW and USFWS with the name and phone number for the approved facility where the individual was taken.
8. All CRLF or CTS observations will be reported to the California Natural Diversity Database (CNDDDB) within 60 days.

Field Equipment Summary

The following materials are required to implement the CRLF and CTS relocation plan and will be available at all times at the project site:

- 2-gallon bucket or hard-sided cooler. Transport vessel will have pre-drilled air holes and locking lid – for transport.
- New general household sponge without scrubbing pad – for maintaining moisture.
- Bottled water – for wetting sponge.
- Plastic slim storage basket with plastic ruler glued to basket – for taking total length measurement.
- Plastic ruler – for taking snout to vent measurement.
- Digital camera, GPS, field documentation forms, project maps.

Reporting Summary

Consistent with the requirements of the Tracy Hills HCP, the relocation and/or take of subject State or Federal listed species will be reported to CDFW and USFWS in the annual monitoring report. A summary of reporting requirements for CRLF and CTS observations within the project area is provided in Table 1.

Table 1. CRLF and CTS encounter action and reporting requirements.

Species Encountered	Course of Action	Reporting Requirements
CRLF or CTS	<u>If free, unharmed & outside of work area:</u> Cease activities in vicinity. Allow amphibian to leave the area on its own volition.	Qualified biologist will report all sightings to USFWS and CDFW within 24 hours by phone, and will submit all sightings to CNDDDB.
	<u>If trapped or injured:</u> Cease activities in vicinity. Amphibian may be moved by an agency-approved biological monitor. Injured amphibian will be taken to a designated facility. If amphibian is in a burrow, cease activities within 50 feet. Burrow may be excavated by an approved biological monitor if it must be impacted by construction.	Same as above. Additionally, incidental take must be reported immediately by phone to USFWS and CDFW and in writing within one (1) working day of relocation.
	<u>All:</u> Submit all sightings to CNDDDB using Field Survey Form.	Within 60 days of discovery and provide copies to CDFW & USFWS.