



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 17, 2022

Dustin Bogue
San Juan Oaks Owner, LLC
5671 Santa Teresa Boulevard, Suite 200
San Jose, California 95123

**Subject: Reissued Incidental Take Permit for San Juan Oaks Specific Plan
(2081-2016-036-04)**

Dear Dustin Bogue:

Enclosed you will find an electronic copy of the reissued 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, sign the acknowledgement, and return the original **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities. 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, California 94244-2090

Alternatively, 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. Digital signatures facilitated by CDFW will be automatically returned.

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 Stephanie Manzo, Environmental Scientist, at stephanie.manzo@wildlife.ca.gov.

Sincerely,

DocuSigned by:

A handwritten signature in black ink, appearing to read "Julie A. Vance".

FA83F09FE08945A...

Julie A. Vance, Regional Manager
Central Region
California Department of Fish and Wildlife

Enclosure

Conserving California's Wildlife Since 1870



**California Department of Fish and Wildlife
Central Region
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710**

California Endangered Species Act
Reissued Incidental Take Permit No. 2081-2016-036-04

SAN JUAN OAKS SPECIFIC PLAN

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:	San Juan Oaks Owner, LLC
Principal Officer:	Dustin Bogue
Contact Person:	Michael Cady, (408) 960-8010
Mailing Address:	5671 Santa Teresa Boulevard, Suite 200 San Jose, California 95123

Effective Date and Expiration Date of this ITP:

This ITP is being reissued to replace San Juan Oaks, LLC with San Juan Oaks Owner, LLC, and incorporate Amendment 1. 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 **September 30, 2030**.

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 7.7 of this ITP.

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"].)

²The 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.

Project Location:

The San Juan Oaks Specific Plan (Project) is located at 3825 Union Road, about 3 miles southwest of the City of Hollister and approximately 1 mile south of the intersection of Highway 156 and Union Road (See Figure 1). Rancho San Justo land grant, Township 13S, Range 5E; APNs 018-190-023, 018 190 033, 018-190-034, 018-200-056, 018-200-057, 018-200-058, 021 140 046, 021-140-053, 021-140-054, 021-190-006, 021-190-017, 021 190 030, 021-190-031, 021-190-032, and 023-010-074. The Project encompasses approximately 1,993 acres within the foothills of the Gabilan Range of California's central coastal mountains at the southeastern end of the San Juan Valley (See Figure 2).

Project Description:

San Juan Oaks, LLC, currently operates an 18-hole public golf course and clubhouse on the property. The Project will add two components to the existing golf course and club house on the property as part of a 1,993-acre specific plan, the active adult community component on the west side of the San Juan Oaks property and the San Juan Oaks component on the east side of the property. The proposed Project will contain 175.6 acres of residential neighborhoods accommodating up to 1,084 single family detached residential units with an average density of six (6) dwelling units per net acre. One thousand seventeen of the single family lots will be located within the active adult community component of the project. Sixty-seven lots will be constructed in the San Juan Oaks component. Of these, 37 lots will be constructed south and east of the existing clubhouse along a new roadway which will be an extension of San Juan Oaks Drive. Thirty single family lots will be constructed south of the proposed neighborhood commercial center (described below) and the existing golf maintenance facility. The active adult community component also includes a 17,500 square foot (sf.) to 25,000 (sf.) Amenity Center located on two parcels totaling 11 acres located at the southern edge of the core residential community, four community parks totaling 6.6 acres, two community parks totaling 16.8 acres, and a landscaped open space common area totaling 141 acres. In addition to the 67 lots that will be constructed, the San Juan Oaks component includes a 200-room resort hotel on 34.6 acres, a 65,000 sf. neighborhood commercial center on 14.1 acres, and an approximately 4-acre assisted living/skilled nursing/memory care facility with up to 100 beds. On-site roadway improvements include both extension of existing roadways and the construction of new roadways within the project site. The existing San Juan Oaks Drive will be widened and extended approximately 4,000 feet east, resulting in 1.1 acres of impact, to provide access to 37 new conventional residential lots and a resort hotel. New onsite roadways will be constructed to service the Neighborhood Commercial area and the residential lots to the south, and for the active adult community component to the west. The project would include the creation of a 41.4 acre on-site agricultural preserve and a 153.5 acre off-site agricultural preserve. Thirteen acres of the 16.8 acres that will be developed as a community park are shared within the agricultural preserve as a passive use. Two acres of the agricultural preserve could also be dedicated as a public facilities site. The existing golf course and clubhouse would remain largely

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unchanged, with some minor renovations. A conservation easement would be dedicated over approximately 1,218 acres of the site, which would be managed as a permanent wildlife habitat area.

Development and construction activities will occur in five phases (Development Phases), which are intended to be implemented sequentially over approximately ten consecutive years, from 2019 through 2030. However, specific build-out could change based on market conditions, construction scheduling, etc. Development of each phase will include all infrastructure, services, facilities and amenities needed to serve the uses and structures within that phase.

During construction, Project activities will include grubbing, excavation, and mass grading within the development envelope and golf course facilities; grading and fill of an approximately 0.29-acre pond; heavy equipment staging; stockpiling of soils; materials transport, laydown, and storage; trench digging and backfilling to install subsurface utilities; existing road paving and improvements; construction of new roads, dwelling units, public buildings, and recreational facilities; installation of drainage basins and related improvements; construction of the water supply distribution system and wastewater collection system; tree and other vegetation removal and trimming; fencing installation; and landscaping and re-vegetation of green space strips. Activities occurring within buffer areas surrounding each Development Phase that are expected to cause temporary impacts include movement, storage, and staging of equipment as well as temporary grading.

Equipment needed to perform the above Project activities include bulldozers, backhoes, motor graders, hovel scrapers, water trucks, front-end loaders, concrete pumpers, pavers, rollers, and haul trucks.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³

This species and only this species is the “Covered Species” for the purposes of this ITP.

Impacts of the Taking on Covered Species:

³See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

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 grubbing, excavation, and mass grading within the development envelope and golf course facilities; grading and fill of an approximately 0.29-acre pond which has the potential to serve as breeding habitat for the Covered Species; heavy equipment staging; stockpiling of soils; materials transport, laydown, and storage; ground compaction; compaction from equipment and materials storage; trench digging and backfilling to install subsurface utilities; existing road paving and improvements; construction of new roads, dwelling units, public buildings, drainage basins and related improvements, and recreational facilities; construction of the water supply wells and distribution system and wastewater collection system; tree and other vegetation removal and trimming; fencing installation; and landscaping and re-vegetation of green space areas (Covered Activities).

Covered Activities may result in incidental take of individuals of the Covered Species in the form of mortality ("kill") from vehicle/equipment strikes during site preparation and hauling of materials and spoils; collapse or excavation of occupied burrows that results in crushing or suffocation of underground individuals during vegetation removal, grubbing, cut/fill, grading, compaction, and trenching; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during vegetation, top soil, or soil compaction, grading activities, and development of roadbeds, structure building pads, and other surface infrastructure; entrapment and burial within trenches for utilities, open pipelines, or uncovered excavations; crushing by equipment; and vehicle strikes on access roads due to increased Project-related traffic. Incidental take of individuals of the Covered Species may also occur from Covered Activities in the form of pursue, catch, capture, or attempt to do so through the capture or entrapment in holes or trenches, by uncovering through the excavation of burrow systems, by corralling into a confined area when barrier fencing is constructed, and when individuals are relocated out of harm's way for mortality reduction as required by this ITP. The areas where authorized take of the Covered Species is expected to occur include: APNs 018-190-023, 018-190-033, 018-190-034, 018-200-056, 018-200-057, 018-200-058, 021 140 046, 021-140-053, 021-140-054, 021-190-006, 021-190-017, 021 190 030, 021-190-031, 021-190-032, and 023-010-074 (collectively, the Project Area).

The Covered Species has been documented from at least six ponds on the San Juan Oaks property since 1994. In November 2005 and February 2006, several drift fence and pitfall traplines were installed to study overland movement and determine numbers of the Covered Species moving to and from ponds near the proposed first phase development area around the existing golf course. Thirty-one individuals were captured on 10 nights between December 2, 2005 and March 4, 2006. Data from the capture locations reveals use of upland habitat features by the Covered Species on the property. Individuals were captured in all upland traplines, indicating that the Covered Species was sheltering in or migrating through

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grassland areas proposed for the first phase of development around the golf course. Data from pond traplines and observations at some ponds indicated that at least two small seasonal ponds adjacent to the golf course supported small breeding populations.

Ponds that were not found to contain larvae or individuals may support the Covered Species in some breeding seasons because of their proximity to other known habitat. The open grassy hills around the golf course act as dry season aestivation habitat, especially in areas of ground squirrel activity. It is likely that the ponds act as a habitat complex in that the Covered Species can utilize some or all of the potential breeding ponds during different breeding seasons depending on precipitation patterns, and the existing golf course allows for movement of the Covered Species from the northeastern ponds to the southeastern ponds around the course.

The Project is expected to cause the permanent loss of 409 acres of upland habitat for the Covered Species (See Figure 3). The Project is also expected to cause the temporary loss of 43.6 acres of upland habitat. 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 ground disturbance, equipment operation, and traffic; stress resulting from capture and relocation; increased exposure or stress from disorientation; introduction or spread of invasive species; and long-term effects due to displacement from preferred habitat, loss of foraging habitat, changes in drainage patterns that favor different vegetative growth, increased pollution, increased competition for food and space, loss of breeding and burrowing habitat used for shelter, reproduction, and escape cover and increased vulnerability to predation. Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization. The areas where authorized take of the Covered Species is expected to occur include the entire Project Area.

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:

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Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and noise and vibration generating activities that may 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 (EIR) (SCH No.: 2013101006) certified by San Benito County on November 3, 2015, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the United States Fish and Wildlife Service Biological Opinion for the San Juan Oaks Golf Club (1-8-06-F-32) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance and Joint and Several Liability:** 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.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative responsible for communications with CDFW and overseeing compliance with this ITP (Designated Representative). Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall

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notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Designated Biologist. Permittee shall submit to CDFW, for approval, the name, qualifications, business address, and contact information of a Designated Biologist(s) at least 14 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. The Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance and in writing by CDFW.
- 6.3. Designated Biologist/Biological Monitor Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and/or Biological Monitor(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.
- 6.4. 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry 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

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for long-term and/or permanent employees that will be conducting work in the Project Area.

- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook 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 notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. 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.
- 6.8. 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.
- 6.9. Dogs. Permittee shall prohibit domestic dogs from the Project Area and site access routes during Covered Activities, except those accompanied by authorized security personnel or local, state, or federal law enforcement officials.
- 6.10. Delineation of Work Area Boundaries. Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags before starting Covered Activities. The Work Area is defined as the active phase of the Project Area where Covered Activities will occur. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in each Work Area. Wildlife exclusion fencing shall not be installed along lengthy linear Work Areas (e.g., access roadways) to prevent impacts to Covered Species dispersing through the area during migratory activities.

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- 6.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat until construction of that particular Development Phase is set to begin and meets all other requirements to proceed with Covered Activities.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, dedicated routes for each Work Area, 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 within current boundaries for each Work Area including established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area or the current boundaries for each Work 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.
- 6.13. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Work Area(s) in each Development Phase using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Work Area(s) in each Development Phase Area unless provided for as described in Condition of Approval 6.12 of this ITP.
- 6.14. 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.
- 6.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project 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.

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- 6.16. Refuse Removal. Upon completion of Covered Activities in each Development Phase, Permittee shall remove from the Project Area and properly dispose of all and 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.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities within each Development Phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities within each Development Phase.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that a 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.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily at each Work Area until the pre-activity clearance surveys (Condition of Approval 8.7), small mammal burrow excavation (Condition of Approval 8.9), Covered Species exclusion fence installation (Conditions of Approval 8.10 and 8.11), and initial grading activities are complete. The Designated Biologist(s) and/or Biological Monitor(s) 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) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Work Area(s) of each Development Phase. 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. The Designated Biologist(s) and/or Biological Monitor(s) shall conduct compliance inspections a minimum of once a week during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in

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Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW quarterly, in May, August, November and February, no later than the 5th day of the month, along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall also include an accounting of the number of acres that have been permanently disturbed within the Project Area, both for the prior quarter and a total since ITP issuance, as well as an estimate of the expected number of acres to be disturbed in the successive quarter; a summary of all pre-activity surveys conducted; and the number of building pads, utility installations, pipelines, roads, and other ground disturbing Covered Activities within the Project Area which occurred during the previous quarter. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Stephanie Manzo (Stephanie.Manzo@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.

- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) for each calendar year no later than May 30 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 Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (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 disturbance, both for the prior calendar year, and a total since ITP issuance; (7) the number of acres of permanent disturbance anticipated to occur in the Project Area during the coming year; (8) a summary of all pre-activity surveys conducted and the annual and cumulative number of building pads, utilities installations, pipelines, roads, and other ground disturbing Covered Activities within the Project Area which

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occurred during the reporting year; and (9) information about other Project related impacts on the Covered Species.

- 7.6. 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 Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, 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 Quarterly 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; (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.
- 7.8. Covered Species Mortality Reduction and Relocation Plan. The Designated Biologist shall prepare a Covered Species Mortality Reduction and Relocation Plan and submit it to CDFW for approval prior to the beginning of Covered Activities. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for the Covered Species; the area within 562 meters of known or potential breeding habitat for the Covered Species; an identification of survey, excavation, capture, handling, and relocation methods; a protocol for the conditional passive exclusion of the Covered Species over the deferred Development Phases (Condition of Approval 8.22); description of exclusionary devices and their use to prevent CTS use of the planned drainage basins; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless approved in

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writing by CDFW and works under the direct supervision of the Designated Biologist.

- 7.9. Notification of Take or Injury. Permittee, their employees, agents, contractors or sub-contractors shall immediately notify the Designated Biologist(s) 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(s) shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification shall include information regarding the location, species, and number of animals taken or injured and the ITP tracking number. Following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to the cause of take or injury, and any other pertinent information. After initial notification, CDFW will direct Permittee as to the final disposition of the carcass.
- 7.10. Notification of Relocated Covered Species. The Designated Biologist or Designated Representative shall notify CDFW if any Covered Species are relocated pursuant to the Covered Species Mortality Reduction and Relocation Plan and/or per Condition of Approval 8.13 below. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243 4005. 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 two 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. For relocated animals, the report shall include photos and information regarding the size, weight, life history stage, location of release and any other details required by the Covered Species Mortality Reduction and Relocation Plan.
- 7.11. As-Built Development Plans. Permittee shall submit as-built development plans to CDFW within sixty (60) days of completing construction on each Development Phase. The as built plan sheets shall delineate and quantify the extent of permanent Project features, including roads, trails, lots, public and commercial buildings, dwellings, infrastructure, and all other facilities and features associated with that Development Phase. The as-built plans shall include an estimate of the permanent disturbance during construction by

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highlighting the estimated disturbance areas on the as-built plan sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from survey data acquired after construction of that phase and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.

8. 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:

- 8.1. Covered Species Observations. During construction, operation, and maintenance of all phases, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.
- 8.2. Covering, Ramping, and Inspecting Excavations. Permittee shall minimize the potential for Covered Species to become entrapped in excavations to the maximum extent practicable. To prevent inadvertent entrapment of Covered Species or any other animals during the construction phase of the Project, Permittee shall ensure that all excavated, steep-walled holes or trenches are covered, ramped, and inspected as described below. This measure does not apply to burrows excavated for salvaging Covered Species until such excavation is complete and no Covered Species remain in the burrow.
 - 8.2.1. Covers. Permittee shall ensure that all trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope are covered or ramped when workers and/or equipment are not actively working in them and at the end of each work day. Covers shall be made of plywood or similar solid material.
 - 8.2.1.1. From when all Covered Species breeding ponds within 1 mile of the excavation are dry in the spring or summer through October 14, and provided that the National Weather Service forecasts less than a 70 percent chance of precipitation at the Project

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Footprint within 72 hours, Permittee may elect to install escape ramps instead of covering excavations that are less than 6 feet deep. Escape ramps shall be of native soil or non-slip planks no less than 10 inches wide.

- 8.2.1.2. From October 15 until all Covered Species breeding ponds within 1 mile are dry in the following spring or summer, and any additional time when the National Weather Service forecasts a minimum 70 percent chance of precipitation at the Project Footprint within 72 hours, for steep-walled excavations between six inches and six feet deep, Permittee shall cover the excavations or construct earthen ramps at minimum 100-foot intervals, and place coverboards midway between each pair of ramps. If the excavation is an un-covered trench, then Permittee shall construct earthen ramps on both sides of the trench at the minimum 100-foot interval to facilitate Covered Species movement in both directions. Within 0.621 mile (1,000 meters) of a Covered Species breeding site, from October 15 until the breeding site dries in the following spring or summer, and any additional time when the National Weather Service forecasts a minimum 70 percent chance of precipitation within 72 hours, no more than 12,000 linear feet of trench within 0.621 mile of each breeding site, and no more than 20,000 linear feet of trench within 0.621 mile of breeding sites cumulatively, may remain uncovered overnight. If Permittee elects to cover an excavation, then Permittee shall ensure that the edges of the covers are either covered with dirt to prevent Covered Species from crawling under them or treated as discussed in the following paragraph for excavations that are greater than 6 feet deep. If Permittee elects to leave excavations uncovered overnight within 1 mile of a Covered Species breeding site, then a Designated Biologist or Biological Monitor working under a Designated Biologist's direct supervision shall inspect the trench and cover boards each morning, and relocate any Covered Species found, by 1 hour after sunrise. No more than 12,000 feet of trench shall be left uncovered overnight per Designated Biologist or Biological Monitor available for the morning survey.
- 8.2.1.3. If the excavation is greater than 6 feet deep, then at all times of the year, two feet of hardware cloth (or another material

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approved by CDFW in writing for this purpose for this Project) shall extend beyond the edge of the cover boards. The hardware cloth shall be secured to the edge of the cover boards and to the ground to discourage Covered Species from digging under the edge and becoming injured in a fall. The hardware cloth shall conform to solid ground so that gaps do not exist between the cloth and the ground. Covering gaps with dirt or laying the hardware cloth over loose soil will not satisfy this requirement. The outer edges of the hardware cloth shall be secured to the ground with re-bar, minimum 10-inch soil staples, or similar means every 12 inches to prevent Covered Species from lifting the edges.

8.2.1.4. If a situation is encountered that this measure does not anticipate and alternative methods of preventing entrapment or injury in excavations are warranted, then Permittee shall request and obtain CDFW's written concurrence prior to implementing the alternative.

- 8.3. Materials Inspection. Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure on its own or relocated as per the Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.8 above before moving and utilizing the structure.
- 8.4. Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.8.
- 8.5. Delineation of Ingress and Egress Routes. All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.

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- 8.6. Road Construction. New and existing roads that are planned for either construction or demolition shall not extend beyond the Work Area. All vehicles passing or turning around shall do so within the Work Area or in previously disturbed areas.
- 8.7. Pre-Activity Clearance Surveys. No more than 14 days prior to starting ground-disturbing Covered Activities in each Work Area, the Designated Biologist shall survey any portions of the Work Area located within 1.3 miles of known or potential Covered Species breeding habitat. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Work Area in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 7.8 above. Permittee shall provide the survey results to CDFW in a written report no more than five (5) days after performing pre-construction surveys, and no less than five (5) days prior to the beginning of Covered Activities within Work Areas of the approved phase.
- 8.8. Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows within any portion of a Work Area, or its 50-foot buffer zone, that is within 1.3 miles of known or potential Covered Species breeding habitat (see Condition of Approval 8.7) to alert biological and work crews to their presence. Where feasible, an avoidance buffer of 50 feet or greater around small mammal burrows shall be maintained regardless of whether the burrow is in the Work Area or the associated buffer zone.
- 8.9. Small Mammal Burrow Excavation. In the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat, all small mammal burrows flagged per Condition of Approval 8.8 that cannot be fully avoided by at least 50 feet shall be fully excavated. Burrow excavation shall be conducted under the direct supervision of the Designated Biologist(s) and in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.8). This excavation requirement applies regardless if the burrow is located within the Work Area or the Work Area's 50-foot buffer zone, with the exception of those burrows outside of the Permittee's access which do not have to be excavated. The Designated Biologist shall relocate any live Covered Species discovered during burrow excavation in accordance with the Covered Species Mortality Reduction and Relocation Plan required in ITP Condition of Approval 7.8 above. Excavation shall occur no more than 14 days after the

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completion of the Covered Species pre-construction surveys as described in Condition of Approval 8.7 above.

- 8.10. Covered Species Wildlife Exclusion Fencing. Prior to any surface disturbance, Permittee shall install temporary wildlife exclusion fencing (exclusion fence) around the perimeter of the applicable Work Area(s) to prevent Covered Species migrating into the Work Area. Fencing material and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed **after** small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.9 above to prevent entrapment of Covered Species within the Work Area. Alternatively, burrow excavation and installation of exclusion fencing may occur simultaneously, if conducted entirely within the dry season (June 1 to October 31; or before the first fall rains). The exclusion fence shall be buried a minimum of four inches below ground surface and shall be equipped with one-way exits to avoid entrapment of Covered Species and other amphibians or reptiles. Fencing should be designed to funnel Covered Species towards one-way exits to allow for proper access. Refuge opportunities (e.g., cover boards) shall be provided along or near both sides of the exclusion fence. Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows in the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated as described in Condition of Approval 8.9 above prior to commencing fence installation. Permittee shall install temporary exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, temporary fencing shall not be installed simultaneously at all Work Areas, and shall be removed immediately upon completion of Covered Activities in each fenced Work Area. Refuge areas shall be inspected each morning during and after rain events. Animals found within the interior fence shall be relocated in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.
- 8.11. Exclusion Fencing Installation. The Designated Biologist shall accompany the exclusion fence construction crew(s) to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the active construction period. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence

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when necessary. Exclusion fence shall be removed immediately upon completion of Covered Activities in each fenced Work Area.

- 8.12. Covered Species Observations. During construction, operation, and maintenance of all phases, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.
- 8.13. Record of Handling and Covered Species Reporting. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDB as per Condition of Approval 7.6. This information should also be included in the Quarterly and Final Compliance Reports.
- 8.14. Dry Season Work. Fill or other ground-disturbing activities within the Covered Species' potential breeding habitat shall be confined to the dry season from June 1 to October 31.
- 8.15. Precipitation. The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Site. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, grading, excavation, etc.) has yet to finish until a zero percent chance of rain is forecast. Work may continue 24 hours after the rain ceases and there is a zero percent chance of precipitation in the 72-hour forecast. Covered Activities may continue during rainfall events within Work Areas that have been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 8.9 and 8.10 above.
- 8.16. Work Hours. Permittee shall confine all construction to daylight hours (sunrise to sunset).

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- 8.17. Stockpiles. Permittee shall place soil stockpiles where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 8.18. Road Construction. New and existing roads that are planned for either construction or demolition shall not extend beyond the Work Area. All vehicles passing or turning around shall do so within the Work Area or in previously disturbed areas.
- 8.19. Curbs, Berms, and/or Dikes. Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent Covered Species from exiting the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design them to allow Covered Species to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow Covered Species to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow Covered Species passage.
- 8.20. Fieldwork Code of Practice. To ensure that the Designated Biologist(s) do not convey disease between Work Areas, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.21. Covered Species Injury. Permittee shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittee shall identify a CDFW-approved wildlife rehabilitation or veterinary facility or other qualified individual before starting Covered Activities to bring such injured Covered Species for care or treatment. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to the CDFW-approved wildlife rehabilitation or veterinary facility. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center, 2001). Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. Notification shall include the

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date, time, location and circumstances of the incident and the name of the facility where the animal was taken. If an injured Covered Species is found during Project construction, the individual shall be evaluated by the Designated Biologist(s) who shall then immediately contact the CDFW Regional Representative, via e-mail and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured Covered Species shall be placed in a shaded container and kept moist, then the following steps shall be taken:

- 1) If the injury is minor or healing and the Covered Species is likely to survive, the Covered Species shall be released immediately in accordance with the CDFW approved Covered Species Mortality Reduction and Relocation Plan as identified in Condition of Approval 7.8. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9.
- 2) If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility followed by notification as described in Condition of Approval 7.9. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9.

8.22 Phased Passive Relocation. Development and construction activities will occur in five Development Phases. As an alternative to burrow excavation and active relocation methods described in Condition of Approval 8.9 above, phased passive relocation may be proposed in areas not slated for immediate development. Phased passive relocation shall occur only with express written authorization from CDFW. Permittee's plans for passive relocation of these portions of the Project Area will be outlined in, and conducted in accordance with, the CDFW-approved Species Mortality Reduction and Relocation Plan required by Condition of Approval 7.8, as well as the Project's fencing plan.

9. Habitat Management Land Acquisition:

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

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the acreage required to provide for adequate compensation. Trenham and Shafer in 2005, as documented in Ecological Applications, Volume 15, pages 1158–1168, “Amphibian upland habitat use and its consequences for population viability,” found that 95 percent of California tiger salamander utilizing a specific breeding site exploit the upland refugia habitat within 630 meters. Approximately one hundred-seventy acres (170 acres) of the Covered Species upland habitat that will be permanently impacted by the Project and 37.4 acres that will be temporarily impacted by the Project occur within 630 meters of known or potential breeding sites and the remaining 239 permanently impacted acres and 6.2 temporarily impacted acres occur beyond that threshold.

To meet this requirement, Permittee shall provide for both the permanent protection and management of the on-site 1,218-acre wildlife habitat area (Figures 4 and 5) included in the Project description (all or portions of APNs 018-190-033, 018-200-056, 018-200-057, 018-200-058, 021-140-054, 021-190-006, 021-190-017, 021-190-030, 021-190-031, 021-190-032, 023-010-074) as Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. If the Permittee is unable to complete the permanent protection and management of the aforementioned HM Lands, Permittee shall purchase 1,039 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2). 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 10 below for all uncompleted obligations.

Phasing of Mitigation

Representing mitigation for the Project impacts, the HM lands will be set aside under permanent conservation easement, and their management in perpetuity funded, by phase, in advance of the coincident Development Phase, in accordance with the Development/Mitigation Schedule presented in Table 1, below.

For each of the first four Development Phases, prior to initiating ground- or vegetation disturbing or other Covered Activities for that phase, the Permittee shall acquire and permanently preserve (e.g., transfer title or record conservation easements or purchase Covered Species credits from a CDFW-approved mitigation or conservation bank) a minimum amount of Covered Species habitat in the amounts summarized in Table 1 and as described in Conditions of Approval 9.2 and 9.3 below, for the particular Development Phase under consideration. Phasing of mitigation requires the Permittee to acquire and permanently preserve additional HM lands in an amount

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equal to 5 percent of the amount required for that phase, as reflected in Table 1 below. For example, if a Development Phase would require 100 acres to fully-mitigate its impacts if mitigation were not phased, the phased HM lands requirement would be to acquire a minimum of 105 acres $[100 \times 1.05]$ prior to ground disturbance in accordance with the Development/Mitigation Schedule presented in Table 1 below. In addition to the requirement outlined immediately above, the Permittee shall deposit sufficient funds to manage the HM lands for the particular mitigation phase, with the required enhancement and endowment amount approved by CDFW for that mitigation phase as specified in Conditions of Approval 9.3, 9.4 and 9.5.

Prior to initiating the fifth and final Development Phase, the remainder of the 1,218 acres of HM lands shall be permanently protected (e.g., transfer title or record conservation easements or purchase Covered Species credits from a CDFW-approved mitigation or conservation bank) and the remaining required enhancement and endowment funds deposited in accordance with Conditions of Approval 9.3, 9.4, and 9.5 and Table 1, below. The acres of disturbance for each of the five Development Phases shall not permanently impact a greater amount of acreage than summarized in Tables 1 and 2, for a maximum cumulative Project disturbance of 409.0 acres of permanent impacts and 43.6 acres of temporary impacts to Covered Species habitat.

Table 1. Project Development/Mitigation Phase Schedule

Project Development Phase	Project Mitigation Phase
Development of Phase 1 will involve construction in the development envelope encompassing a total of 171.1 acres of suitable Covered Species habitat. Of these, a total of 162.9 acres will be permanently impacted and 8.2 acres will be temporarily impacted.	To mitigate for Development Phase 1-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 398.2 acres of HM lands.
Development Phase 2 will involve construction in development envelope and associated open space encompassing a total of 59.3 acres of suitable Covered Species habitat. All 59.3 acres will be permanently impacted.	To mitigate for Development Phase 2-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 116.9 acres of HM lands.

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Project Development Phase	Project Mitigation Phase
Development Phase 3 will involve construction in the development envelope and associated space encompassing a total of 63.7 acres of suitable Covered Species habitat. All 63.7 acres will be permanently impacted.	To mitigate for Development Phase 3-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 117.8 acres of HM lands.
Development Phase 4 will involve construction in the development envelope and associated space encompassing a total of 68.9 acres of suitable Covered Species habitat. All 68.9 acres will be permanently impacted.	To mitigate for Development Phase 4-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 205.3 acres of HM lands.
Development Phase 5 will involve construction in the development envelope and associated space encompassing a total of 89.6 acres of suitable Covered Species habitat. Of these, a total of 54.2 acres will be permanently impacted and 35.4 acres will be temporarily impacted.	To mitigate for Development Phase 5-related impacts to the Covered Species, the Permittee will permanently protect and fund the perpetual management of a minimum of 379.8 acres of HM Lands, representing the remainder of the wildlife habitat area.
452.6-acre disturbance	1,218 acres HM lands

As an alternative to permanently preserving the HM lands and providing for their enhancement and endowment, Permittee may provide CDFW with performance security for a particular Development Phase in the form of an irrevocable letter of credit or another form of security approved in advance in writing by CDFW's Office of General Counsel (Performance Security) for the preservation and perpetual management of the HM lands including Start-up Activities, Interim Management (Initial and Capital), and the Endowment Fund as described in Conditions of Approval 9.1 and 10 and the Performance Security Funding Schedule summarized in Table 2, below.

Table 2. Performance Security Funding Schedule

Development Phase	Acreage of Impact	Minimum HM lands Preservation Acreage ¹	Minimum Security Funding ²
1	171.1 acres	398.2 acres	\$5,302,401.58 ³

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Development Phase	Acreage of Impact	Minimum HM lands Preservation Acreage ¹	Minimum Security Funding ²
2	59.3 acres	116.9 acres	\$1,553,108.85
3	63.7 acres	117.8 acres	\$1,565,066.06
4	68.9 acres	205.3 acres	\$2,727,572.69
5	89.6 acres	200.7 acres	\$2,666,458.05
TOTAL	452.6 acres	1,038.9 acres	\$13,814,607.23

¹ Minimum HM lands preservation acreage for Development Phases 1 through 4 includes 5 percent contingency acreage.

² Minimum Performance Security funding pro-rated on the average estimated cost per acre of security for a minimum of 1,038.9 acres of HM lands including land acquisition, start-up, interim, and long-term costs as identified in Condition of Approval 9.1. Minimum security funding is based on 2016 cost estimates. Beginning January 1, 2017 the minimum Performance Security funding shall be adjusted for each Development Phase in accordance with Condition of Approval 9.4.2.

³ Phase 1 includes a \$12,000.00 account set up fee as identified in Condition of Approval 9.1.5.

If the Performance Security option is used, the Permittee shall complete the permanent protection and funding for perpetual management of HM lands or provide proof of purchase of Covered Species acreage credits from a CDFW-approved mitigation or conservation bank to offset impacts for that particular Development Phase, as described above, within 18 months of the effective date of CDFW receiving the Performance Security for that phase. All other phases shall also proceed in this manner if the Performance Security option is used. In other words, at no time may a Development Phase begin before one of the following have been satisfied: (1) the permanent protection and funding for perpetual management of the HM lands for the Development Phase is complete; (2) proof of purchase is provided that Covered Species acreage credits have been acquired for that phase; or (3) Performance Security is provided to CDFW pursuant to Condition of Approval 10 below.

9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows. The cost estimates are based on 2016 evaluations; therefore, beginning January 1, 2017, the start-up costs, interim management funding, and long-term management funding shall be adjusted and increased annually for each Development Phase based on the most recent Gross Domestic Product Price Deflator (GDPPD), as published by

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the United States Bureau of Economic Analysis, until the time of deposit, in accordance with Condition of Approval 9.4.2 and 10.1 below.

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated in 2016 dollars at \$10,000.00/acre for 1,038.9 acres: **\$10,389,000.00**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements and include real-estate fees;
 - 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated in 2016 dollars at **\$284,648.21 (\$273.99/acre)**;
 - 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated in 2016 dollars at **\$190,949.82 (\$183.80/acre)**;
 - 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated in 2016 dollars at \$2,828.00/acre for 1,038.9 acres: **\$2,938,009.20**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
 - 9.1.5. 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 9.5, estimated in 2016 dollars at a minimum of **\$12,000.00**.
- 9.2. Covered Species Credits. Permittee shall purchase 1,039 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities for Development Phases 1 through 5 as depicted in Table 2 above, or within 18 months of the effective date of CDFW receiving the Performance Security for that phase if Security is provided pursuant to Condition of Approval 10 below.

OR:

- 9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, Permittee shall:

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- 9.3.1. 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. Permittee shall obtain CDFW written approval of any conservation easement before its execution 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);
- 9.3.2. 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 3A) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3B). 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;
- 9.3.4. 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

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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.

- 9.3.5. 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 <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); the management plan should recognize anticipated phasing of the acquisition of mitigation lands (Mitigation Phase), and provide interim management objectives and tasks (including monitoring), and long term management objectives and tasks (including monitoring), for each projected Mitigation Phase, in which no Mitigation Phase's management relies on aspects of management of future phases; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing of each Mitigation Phase; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable, of each Mitigation Phase; and (7) installing signage for each mitigation phase;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. 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, covered species surveys, data management, annual reporting, 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.

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- 9.4. Endowment Fund. If Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, then 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 9.3.5. 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. For this ITP, which anticipates that the Endowment will be funded in phases, the interim management period for each Mitigation Phase is three years after deposit of that phase's funds; and funds will be available for long-term management and monitoring for each Mitigation Phase three years after that phase's funds were deposited.

- 9.4.1. 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

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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). Once an Endowment Manager has been identified, the endowment amount has been calculated per Condition of Approval 9.4.2, and funds deposited per Condition of Approval 9.4.3 for the first Mitigation Phase, changes in the Endowment Manager for subsequent Mitigation Phases shall be allowed only with a revised endowment fund amount approved in writing by CDFW, calculated per Condition of Approval 9.4.2.

- 9.4.2. 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). A separate PAR shall be prepared for the HM lands which are permanently protected for each Mitigation Phase approved by CDFW per Condition of Approval 9.3.1. Permittee shall submit to CDFW for review and approval the results of each PAR before transferring funds to the Endowment Manager. The cost estimates in the PAR are based on evaluations at the time the analysis is completed. In order to take into consideration the time lapse and inflationary influences between development of the PAR and the subsequent deposit of the endowment funds for each Mitigation Phase, the endowment costs for each Mitigation Phase shall be adjusted annually based on the most recent GDPPD. All calculations used to derive the newly adjusted endowment amount shall be submitted to CDFW Regional Representative for written approval no less than 30 days prior to deposit into the Endowment Fund.

- 9.4.2.1. 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.

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9.4.2.2. 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:

9.4.2.2.1. 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.

9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding for each Mitigation Phase.

9.4.2.2.3. 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.

9.4.2.2.4. Apportioning Costs Between Phases. The PAR shall identify costs by Mitigation Phase, and not simply pro-rate costs by acre. Certain costs may need to be allocated to the first Mitigation Phase, such as equipment purchasing/leasing; or to specific properties according to features of the property. Each Mitigation Phase's PAR shall be estimated such that stand-alone management, monitoring and reporting may occur.

9.4.3. 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 (and each phase of this 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, and each phase of this Endowment. The Endowment

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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.

- 9.5. 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.

10. Performance Security

Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 10.1. Security Amount. The total Security for the Project as a whole (1,038.9 acres of HM lands) shall be in the amount of **\$13,814,607.23** in 2016 dollars. This amount is based on the cost estimates identified in Condition of Approval 9.1 above. Because the Project is phased, and separate Security may be deposited for each Development Phase, the Security amounts shown in Table 2 above shall increase annually as per the GDPPD until the time of Security posting as approved by CDFW. The Security amounts in Table 2 are based on the cost estimates identified in Condition of Approval 9.1 above. Security for the initial Development Phase shall be deposited with CDFW before Covered Activities begin or within 30 days of this ITP's effective date, whichever occurs first. Security for later Development Phases shall be provided to CDFW before Covered Activities begin in those respective phases.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first, or Security shall be provided to CDFW before Covered Activities begin for each of five Development Phases as described in Condition of Approval 9 and shown in Table 2 above.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

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- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. 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.
- 10.7. 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 for each Development Phase, record any required conservation easements no later than 18 months from the date on which Security was received by CDFW for each Development Phase of the Project. 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.

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,

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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:

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

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

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 (2081-2016-036-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
Region 4 – Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
R4CESA@wildlife.ca.gov

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and a copy to:

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

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

Stephanie Manzo
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
Stephanie.Manzo@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, San Benito County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Del Webb at San Juan Oaks Specific Plan EIR, (SCH No.: 2013101006) dated June 2015 that San Benito County certified for Del Webb at San Juan Oaks Specific Plan on November 3, 2015. 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.

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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, Del Webb at San Juan Oaks Specific Plan EIR, United States Fish and Wildlife Service Biological Opinion for the San Juan Oaks Golf Club, 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) Quarterly 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 896 acres of compensatory habitat that is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of 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;

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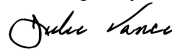
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the 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	Site Location
FIGURE 2	Permit Area
FIGURE 3	CTS Habitat Analysis
FIGURE 4	Conservation Easement Area Site Location
FIGURE 5	Habitat Types within the Conservation Easement Area
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Proposed Lands for Acquisition Form; Habitat Management Lands Checklist
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form
ATTACHMENT 6	Amendment No. 1

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 10/18/2022

DocuSigned by:

 FA83F09FE08945A...

Julie A. Vance, Regional Manager
 CENTRAL REGION

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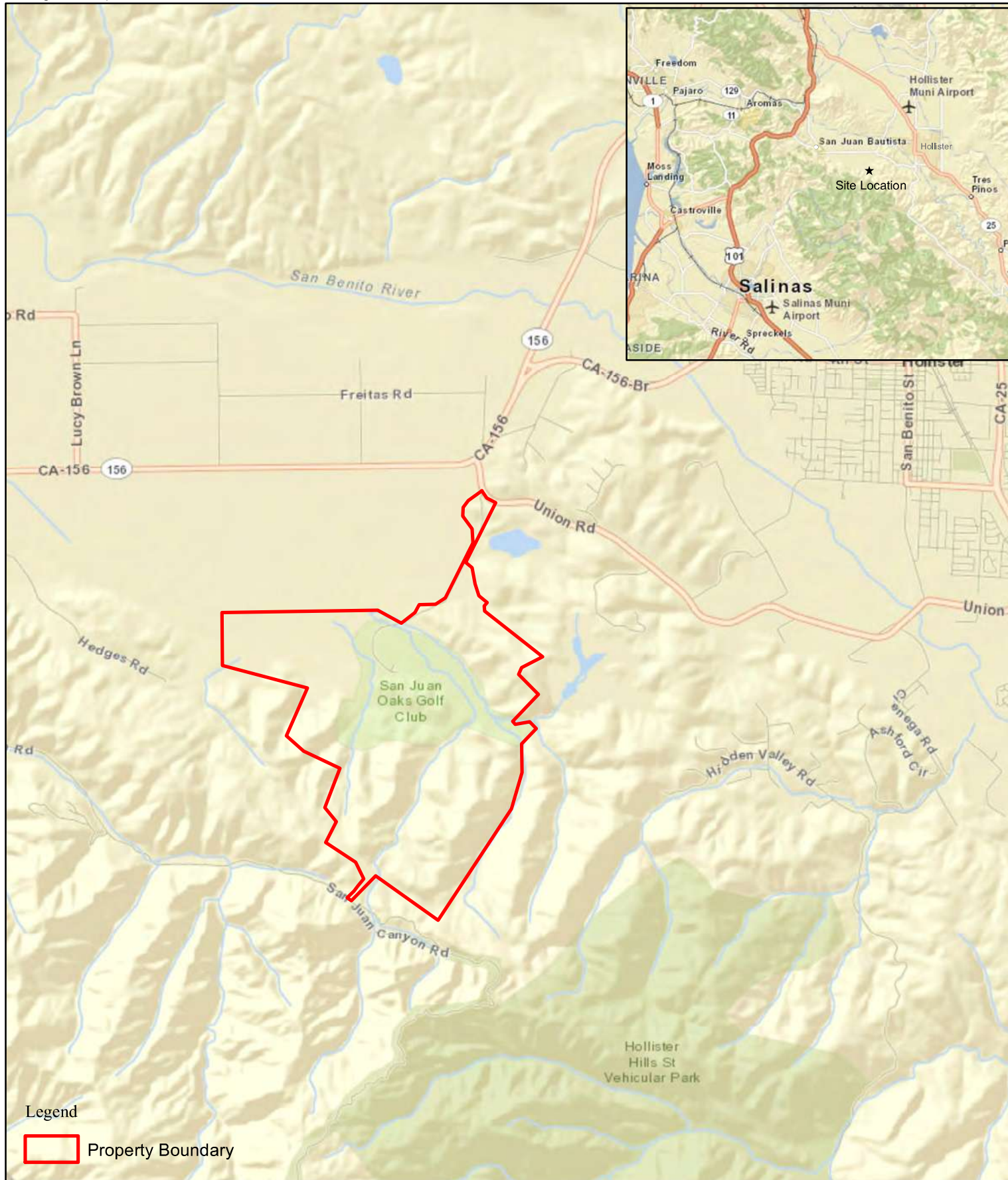
ACKNOWLEDGMENT

The undersigned: (1) warrants that they are 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

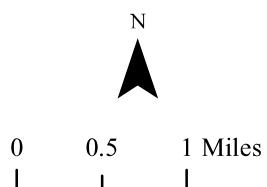
By:  _____ Date: 10/18/2022

Printed Name: Dustin L. Bogue Title: Partner & CEO

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Zander Associates
Environmental Consultants
4460 Redwood Hwy, Suite 16-240
San Rafael, CA 94903




Site Location
ITP Application
San Juan Oaks Specific Plan
San Benito County, California

Figure
1



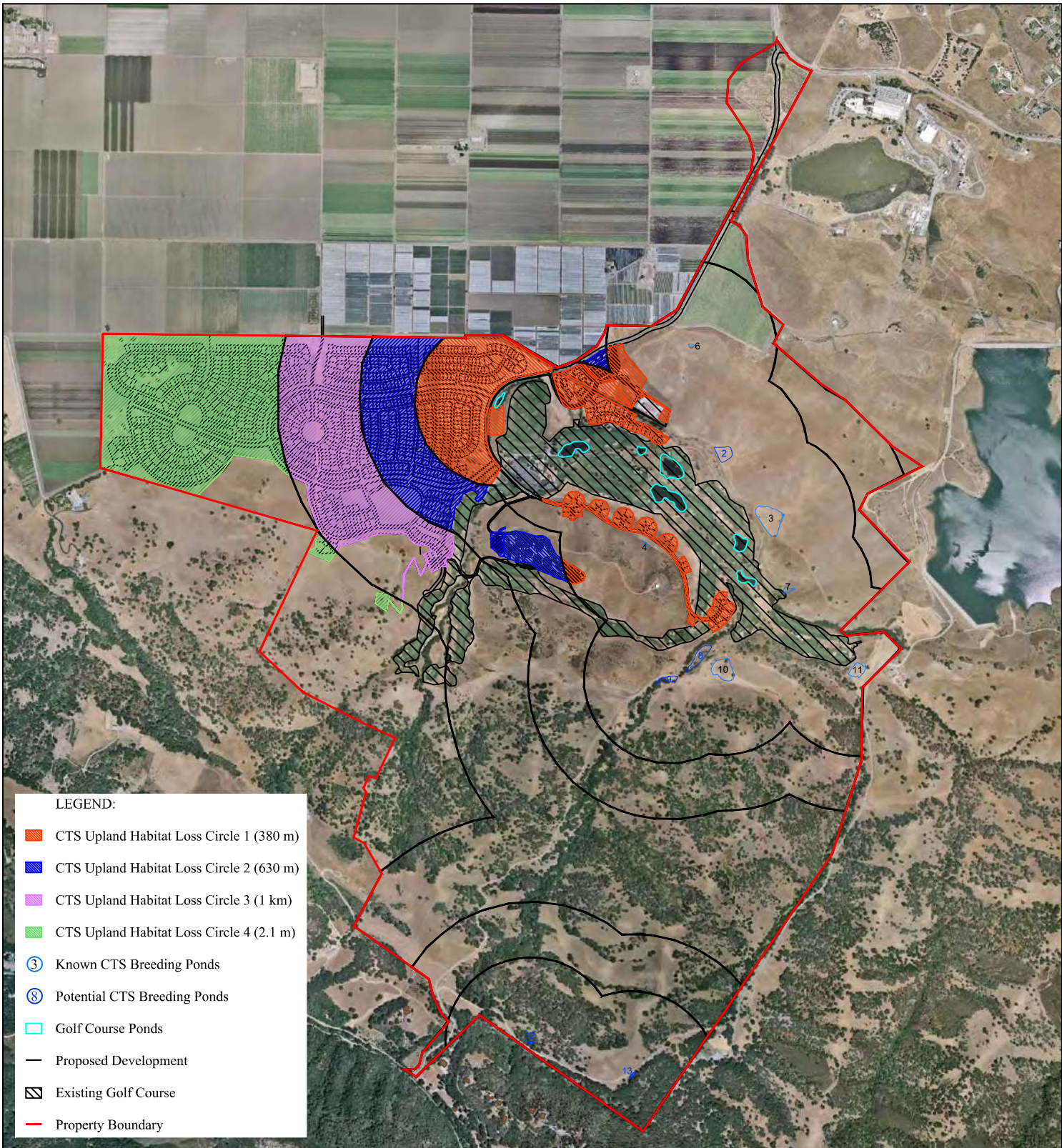
LEGEND:
— Proposed Development
— Property Boundary

Zander Associates
Environmental Consultants
4460 Redwood Hwy, Suite 16-240
San Rafael, CA 94903


Scale: 1" = 2,000'

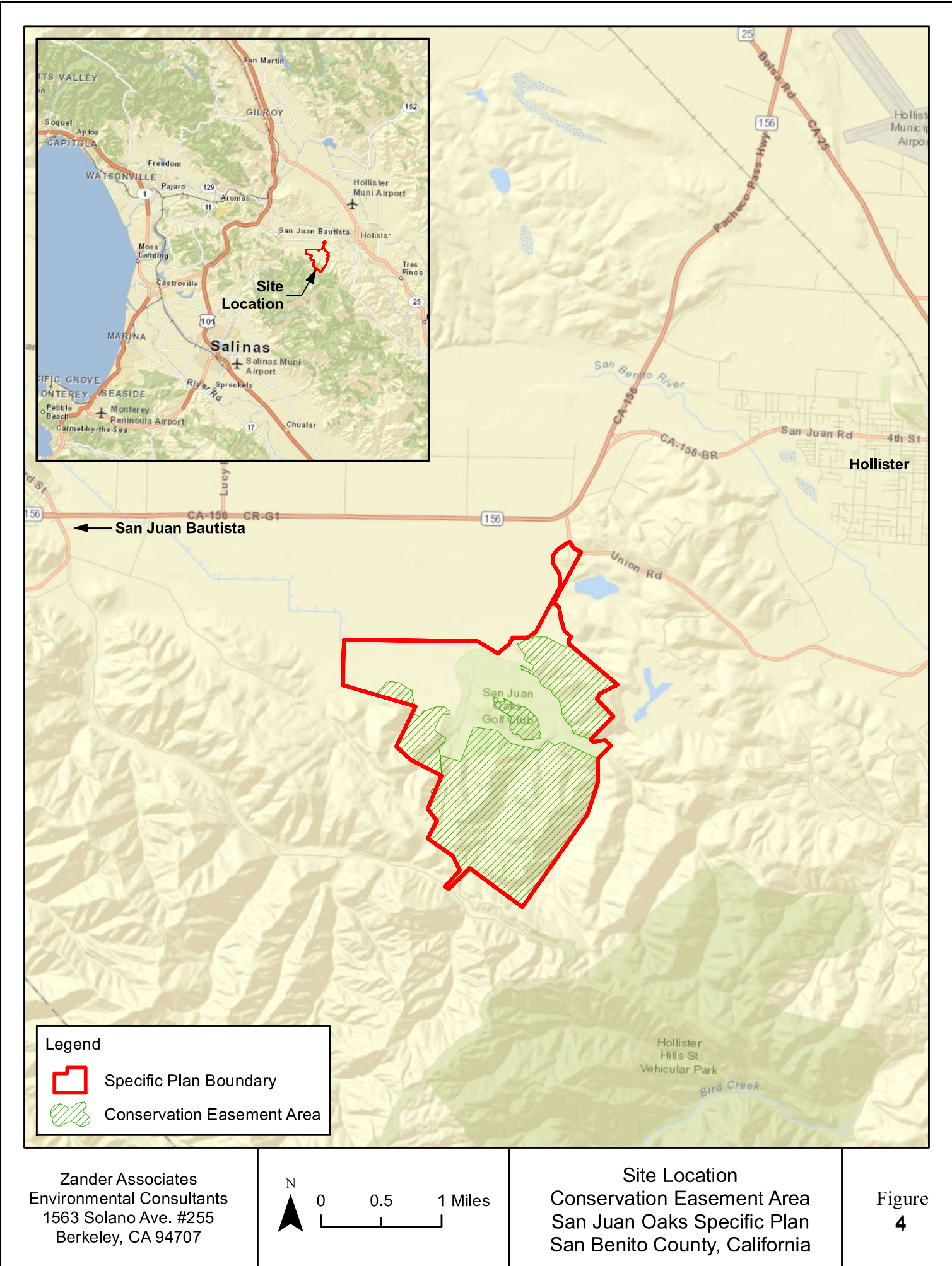
Proposed Del Webb Project
ITP Application
San Juan Oaks Specific Plan
San Benito County, California

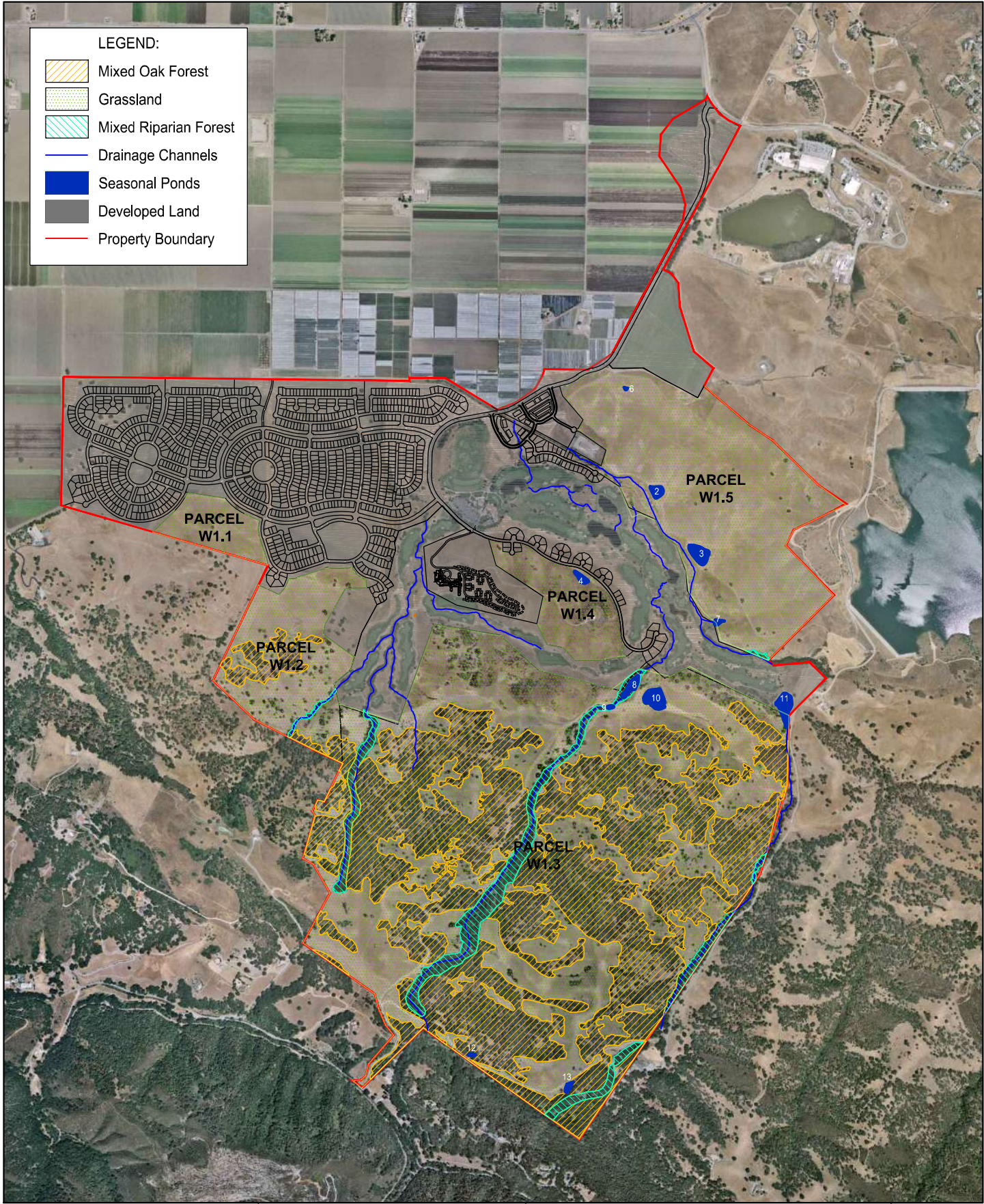
Figure
2



LEGEND:

- CTS Upland Habitat Loss Circle 1 (380 m)
- CTS Upland Habitat Loss Circle 2 (630 m)
- CTS Upland Habitat Loss Circle 3 (1 km)
- CTS Upland Habitat Loss Circle 4 (2.1 m)
- Known CTS Breeding Ponds
- Potential CTS Breeding Ponds
- Golf Course Ponds
- Proposed Development
- Existing Golf Course
- Property Boundary





Zander Associates
Environmental Consultants
1563 Solano Ave. #255
Berkeley, CA 94707



0 1000 2000
Feet

Habitat Types within CEA
San Juan Oaks Specific Plan
San Benito County, California

Figure
5

Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) CALIFORNIA ENDANGERED SPECIES ACT

INCIDENTAL TAKE PERMIT NO. 2081-2016-036-04

PERMITTEE: San Juan Oaks Owner, LLC

PROJECT: San Juan Oaks Specific Plan

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the 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					
1	<u>Designated Representative</u> . Before starting Covered Activities, Permittee shall designate a representative responsible for communications with CDFW and overseeing compliance with the ITP (Designated Representative). 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 the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist</u> . Permittee shall submit to CDFW, for approval, the name, qualifications, business address, and contact information of a Designated Biologist(s) at least 14 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. The Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance and in writing by CDFW.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Education Program</u> . 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 the 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry 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.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Dust Control</u> . 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.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	<u>Delineation of Work Area Boundaries.</u> Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags before starting Covered Activities. The Work Area is defined as the active phase of the Project Area where Covered Activities will occur. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in each Work Area. Wildlife exclusion fencing shall not be installed along lengthy linear Work Areas (e.g., access roadways) to prevent impacts to Covered Species dispersing through the area during migratory activities.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Habitat.</u> Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat until construction of that particular Development Phase is set to begin and meets all other requirements to proceed with Covered Activities.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Notification Before Commencement.</u> The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities within each Development Phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities within each Development Phase.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<u>Covered Species Mortality Reduction and Relocation Plan.</u> The Designated Biologist shall prepare a CTS Mortality Reduction and Relocation Plan and submit it to CDFW for approval prior to the beginning of Covered Activities. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for the Covered Species; the area within 562 meters of known or potential breeding habitat for the Covered Species; an identification of survey, excavation, capture, handling, and relocation methods; a protocol for the conditional passive exclusion of the Covered Species over the deferred Development Phases (Condition of Approval 8.22); description of exclusionary devices and their use to prevent CTS use of the planned drainage basins; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling CTS unless approved in writing by CDFW and works under the direct supervision of the Designated Biologist.	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	<u>Pre-Activity Clearance Surveys.</u> No more than 14 days prior to starting ground disturbing Covered Activities in each Work Area, the Designated Biologist shall survey any portions of the Work Area located within 1.3 miles of known or potential Covered Species breeding habitat. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Work Area in accordance with the CDFW approved Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 7.8 above. Permittee shall provide the survey results to CDFW in a written report no more than five (5) days after performing pre-construction surveys, and no less than five (5) days prior to the beginning of Covered Activities within Work Areas of the approved phase.	ITP Condition # 8.7	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows within any portion of a Work Area, or its 50-foot buffer zone, that is within 1.3 miles of known or potential Covered Species breeding habitat (see Condition of Approval 8.7) to alert biological and work crews to their presence. Where feasible, an avoidance buffer of 50 feet or greater around small mammal burrows shall be maintained regardless of whether the burrow is in the Work Area or the associated buffer zone.	ITP Condition # 8.8	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	Small Mammal Burrow Excavation. In the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat, all small mammal burrows flagged per Condition of Approval 8.8 that cannot be fully avoided by at least 50 feet shall be fully excavated. Burrow excavation shall be conducted under the direct supervision of the Designated Biologist(s) and in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.8). This excavation requirement applies regardless if the burrow is located within the Work Area or the Work Area's 50-foot buffer zone, with the exception of those burrows outside of the Permittee's access which do not have to be excavated. The Designated Biologist shall relocate any live Covered Species discovered during burrow excavation in accordance with the Covered Species Mortality Reduction and Relocation Plan required in ITP Condition of Approval 7.8 above. Excavation shall occur no more than 14 days after the completion of the Covered Species pre-construction surveys as described in Condition of Approval 8.7 above.	ITP Condition # 8.9	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	Covered Species Wildlife Exclusion Fencing. Prior to any surface disturbance, Permittee shall install temporary wildlife exclusion fencing (exclusion fence) around the perimeter of the applicable Work Area(s) to prevent Covered Species migrating into the Work Area. Fencing material and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed <u>after</u> small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.9 above to prevent entrapment of Covered Species within the Work Area. Alternatively, burrow excavation and installation of exclusion fencing may occur simultaneously, if conducted entirely within the dry season (June 1 to October 31; or before the first fall rains). The exclusion fence shall be buried a minimum of four inches below ground surface and shall be equipped with one-way exits to avoid entrapment of Covered Species and other amphibians or reptiles. Fencing should be designed to funnel Covered Species towards one-way exits to allow for proper access. Refuge opportunities (e.g., cover boards) shall be provided along or near both sides of the exclusion fence. Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows in the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated as described in Condition of Approval 8.9 above prior to commencing fence installation. Permittee shall install temporary exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, temporary fencing shall not be installed simultaneously at all Work Areas, and shall be removed immediately upon completion of Covered Activities in each fenced Work Area. Refuge areas shall be inspected each morning during and after rain events. Animals found within the interior fence shall be relocated in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.	ITP Condition # 8.10	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<u>Exclusion Fencing Installation.</u> The Designated Biologist shall accompany the exclusion fence construction crew(s) to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the active construction period. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary. Exclusion fence shall be removed immediately upon completion of Covered Activities in each fenced Work Area.	ITP Condition # 8.11	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<u>Phased Passive Relocation.</u> Development and construction activities will occur in five Development Phases. As an alternative to burrow excavation and active relocation methods described in Condition of Approval 8.9 above, phased passive relocation may be proposed in areas not slated for immediate development. Phased passive relocation shall occur only with express written authorization from CDFW. Permittee's plans for passive relocation of these portions of the Project Area will be outlined in, and conducted in accordance with, the CDFW-approved Species Mortality Reduction and Relocation Plan required by Condition of Approval 7.8, as well as the Project's fencing plan.	ITP Condition # 8.22	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	<u>Habitat Management Land Acquisition.</u> Permittee shall provide for both the permanent protection and management of the on-site 1,218-acre wildlife habitat area included in the Project description (all or portions of APNs 018-190-033, 018-200-056, 018-200-057, 018-200-058, 021-140-054, 021-190-006, 021-190-017, 021-190-030, 021-190-031, 021-190-032, 023-010-074) as Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. If the Permittee is unable to complete the permanent protection and management of the aforementioned HM Lands, the Permittee shall purchase 1,039 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2).	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows. The cost estimates are based on 2016 evaluations; therefore, beginning January 1, 2017, the start-up costs, interim management funding, and long-term management funding shall be adjusted and increased annually for each Development Phase based on the most recent Gross Domestic Product Price Deflator (GDPPD), as published by the United States Bureau of Economic Analysis, until the time of deposit, in accordance with Condition of Approval 9.4.2 and 10.1 below.</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated in 2016 dollars at \$10,000.00/acre for 1,038.9 acres: \$10,389,000.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements and include real-estate fees; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated in 2016 dollars at \$284,648.21 (\$273.99/acre); iii) Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$164,681.00; iv) Long-term management funding as described in Condition of Approval 9.4 below, estimated in 2016 dollars at \$2,828.00/acre for 1,038.9 acres: \$2,938,009.20. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. v) 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 9.5, estimated in 2016 dollars at a <i>minimum</i> of \$12,000.00. 	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
18	<p><u>Covered Species Credits</u>. Permittee shall purchase 1,039 Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities for Development Phases 1 through 5 as depicted in Table 2 of the ITP, or within 18 months of the effective date of CDFW receiving the Performance Security for that phase if Security is provided pursuant to Condition of Approval 10 below.</p> <p>OR:</p>	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<u>Habitat Acquisition and Protection</u> . Fee Title/Conservation Easement. To provide for the acquisition and protection of the HM lands, the Permittee shall 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. Permittee shall obtain CDFW written approval of any conservation easement before its execution 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 #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
20	<u>HM Lands Approval</u> . 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 #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
21	<u>HM Lands Documentation</u> . 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 #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
22	<u>Land Manager</u> . 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 #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<u>Start-up Activities</u> . 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 http://www.dfg.ca.gov/habcon/conplan/mitbank/); the management plan should recognize anticipated phasing of the acquisition of mitigation lands (Mitigation Phase), and provide interim management objectives and tasks (including monitoring), and long term management objectives and tasks (including monitoring), for each projected Mitigation Phase, in which no Mitigation Phase's management relies on aspects of management of future phases; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing of each Mitigation Phase; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable, of each Mitigation Phase; and (7) installing signage for each Mitigation Phase;	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
24	<u>Interim Management (Initial and Capital)</u> . Provide for the interim management of the HM lands. 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, covered species surveys, data management, annual reporting, 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.	ITP Condition #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<p>Endowment Fund. If Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, then Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the 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 9.3.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the 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 the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment. For the ITP, which anticipates that the Endowment will be funded in phases, the interim management period for each Mitigation Phase is three years after deposit of that phase's funds; and funds will be available for long-term management and monitoring for each Mitigation Phase three years after that phase's funds were deposited.</p>	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
26	<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). Once an Endowment Manager has been identified, the endowment amount has been calculated per Condition of Approval 9.4.2, and funds deposited per Condition of Approval 9.4.3 for the first Mitigation Phase, changes in the Endowment Manager for subsequent Mitigation Phases shall be allowed only with a revised endowment fund amount approved in writing by CDFW, calculated per Condition of Approval 9.4.2.</p>	ITP Conditions #9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	<u>Calculate the Endowment Funds Deposit.</u> 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). A separate PAR shall be prepared for the HM lands which are permanently protected for each Mitigation Phase approved by CDFW per Condition of Approval 9.3.1. Permittee shall submit to CDFW for review and approval the results of each PAR before transferring funds to the Endowment Manager. The cost estimates in the PAR are based on evaluations at the time the analysis is completed. In order to take into consideration the time lapse and inflationary influences between development of the PAR and the subsequent deposit of the endowment funds for each Mitigation Phase, the endowment costs for each Mitigation Phase shall be adjusted annually based on the most recent GDPPD. All calculations used to derive the newly adjusted endowment amount shall be submitted to CDFW Regional Representative for written approval no less than 30 days prior to deposit into the Endowment Fund.	ITP Conditions #9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
28	<u>Capitalization Rate and Fees.</u> 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 #9.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
29	<u>Endowment Buffers/Assumptions.</u> 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 Fund: <ul style="list-style-type: none"> • A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • The endowment shall be established assuming spending will not occur for the first three years after full funding for each Mitigation Phase. • 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 Fund Manager and CDFW. • The PAR shall identify costs by Mitigation Phase, and not simply pro-rate costs by acre. Certain costs may need to be allocated to the first Mitigation Phase, such as equipment purchasing/leasing; or to specific properties according to features of the property. Each Mitigation Phase's PAR shall be estimated such that stand-alone management, monitoring and reporting may occur. 	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<u>Transfer Long-term Endowment Funds.</u> 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 (and each phase of 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, and each phase of the Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	
31	<u>Reimburse CDFW.</u> 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 #9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
32	<p>Performance Security. The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> Security Amount. The total Security for the Project as a whole (1,038.9 acres of HM lands) shall be in the amount of \$13,814,607.23 in 2016 dollars. This amount is based on the cost estimates identified in Condition of Approval 9.1 above. Because the Project is phased, and separate Security may be deposited for each Development Phase, the Security amounts shown in Table 2 above shall increase annually as per the GDPPD until the time of Security posting as approved by CDFW. The Security amounts in Table 2 are based on the cost estimates identified in Condition of Approval 9.1 above. Security for the initial Development Phase shall be deposited with CDFW before Covered Activities begin or within 30 days of the ITP's effective date, whichever occurs first. Security for later Development Phases shall be provided to CDFW before Covered Activities begin in those respective phases. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first <u>or</u> Security shall be provided to CDFW before Covered Activities begin for each of five Development Phases as described in Condition of Approval 9 and shown in Table 2 above. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other. 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 the ITP. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by: <ul style="list-style-type: none"> Timely submission of all required reports; An on-site inspection by CDFW; and Written approval from CDFW. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands for each Development Phase, and record any required conservation easements, and provide endowment funding no later than 18 months from the date on which Security was received by CDFW for each Development Phase of the Project. 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>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving Security for that phase, if provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
33	<u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily at each Work Area until the pre-activity clearance surveys (Condition of Approval 8.7), small mammal burrow excavation (Condition of Approval 8.9), Covered Species exclusion fence installation (Conditions of Approval 8.10 and 8.11), and initial grading activities are complete. The Designated Biologist(s) and/or Biological Monitor(s) 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) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Work Area(s) of each Development Phase. 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. The Designated Biologist(s) and/or Biological Monitor(s) shall conduct compliance inspections a minimum of once a week during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.3	Entire Project	Permittee	
34	<u>Quarterly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW quarterly, in May, August, September and February, no later than the 5th day of the month, along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall also include an accounting of the number of acres that have been permanently disturbed within the Project Area, both for the prior quarter and a total since ITP issuance, as well as an estimate of the expected number of acres to be disturbed in the successive quarter; a summary of all pre-activity surveys conducted; and the number of building pads, utility installations, pipelines, roads, and other ground disturbing Covered Activities within the Project Area which occurred during the previous quarter. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Stephanie Manzo (Stephanie.Manzo@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 # 7.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	<u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) for each calendar year no later than May 30 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (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 this 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 disturbance, both for the prior calendar year, and a total since ITP issuance; (7) the number of acres of permanent disturbance anticipated to occur in the Project Area during the coming year; (8) a summary of all pre-activity surveys conducted and the annual and cumulative number of building pads, utilities installations, pipelines, roads, and other ground disturbing Covered Activities within the Project Area which occurred during the reporting year; and (9) information about other Project related impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
36	<u>CNDDDB Observations.</u> 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 Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Entire Project	Permittee	
37	<u>Notification of Non-compliance.</u> The Designated Representative shall immediately notify CDFW in writing if it determines that a Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
38	<u>Construction Monitoring Notebook.</u> The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
39	<u>Erosion Control Materials.</u> 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 # 6.8	Entire Project	Permittee	
40	<u>Dogs.</u> Permittee shall prohibit domestic dogs from the Project Area and site access routes during Covered Activities, except those accompanied by authorized security personnel or local, state, or federal law enforcement officials.	ITP Condition # 6.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes, dedicated routes for each Work Area, 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 within current boundaries for each Work Area including established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area or the current boundaries for each Work Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
42	<u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Work Area(s) in each Development Phase using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Work Area unless provided for as described in Condition of Approval 6.12 of the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
43	<u>Hazardous Waste.</u> 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 # 6.14	Entire Project	Permittee	
44	<u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project 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 the ITP.	ITP Condition # 6.15	Entire Project	Permittee	
45	<u>Covered Species Observations.</u> During construction, operation, and maintenance of all phases, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.	ITP Condition # 8.1	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46	<p><u>Covering, Ramping, and Inspecting Excavations.</u> Permittee shall minimize the potential for Covered Species to become entrapped in excavations to the maximum extent practicable. To prevent inadvertent entrapment of Covered Species or any other animals during the construction phase of the Project, Permittees shall ensure that all excavated, steep-walled holes or trenches are covered, ramped, and inspected as described below. This measure does not apply to burrows excavated for salvaging Covered Species until such excavation is complete and no Covered Species remain in the burrow.</p> <p>a) <u>Covers.</u> Permittee shall ensure that all trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope are covered or ramped when workers and/or equipment are not actively working in them and at the end of each work day. Covers shall be made of plywood or similar solid material.</p> <p>i. From when all Covered Species breeding ponds within 1 mile of the excavation are dry in the spring or summer through October 14, and provided that the National Weather Service forecasts less than a 70 percent chance of precipitation at the Project Footprint within 72 hours, Permittee may elect to install escape ramps instead of covering excavations that are less than 6 feet deep. Escape ramps shall be of native soil or non-slip planks no less than 10 inches wide.</p> <p>ii. From October 15 until all Covered Species breeding ponds within 1 mile are dry in the following spring or summer, and any additional time when the National Weather Service forecasts a minimum 70 percent chance of precipitation at the Project Footprint within 72 hours, for steep-walled excavations between six inches and six feet deep, Permittee shall cover the excavations or construct earthen ramps at minimum 100-foot intervals, and place coverboards midway between each pair of ramps. If the excavation is an un-covered trench, then Permittee shall construct earthen ramps on both sides of the trench at the minimum 100-foot interval to facilitate Covered Species movement in both directions. Within 0.621 mile (1,000 meters) of a Covered Species breeding site, from October 15 until the breeding site dries in the following spring or summer, and any additional time when the National Weather Service forecasts a minimum 70 percent chance of precipitation within 72 hours, no more than 12,000 linear feet of trench within 0.621 mile of each breeding site, and no more than 20,000 linear feet of trench within 0.621 mile of breeding sites cumulatively, may remain uncovered overnight. If Permittee elects to cover an excavation, then Permittee shall ensure that the edges of the covers are either covered with dirt to prevent Covered Species from crawling under them or treated as discussed in the following paragraph for excavations that are greater than 6 feet deep. If Permittee elects to leave excavations uncovered overnight within 1 mile of a Covered Species breeding site, then a Designated Biologist or Biological Monitor working under a Designated Biologist's direct supervision shall inspect the trench and cover boards each morning, and relocate any Covered Species found, by 1 hour after sunrise. No more than 12,000 feet of trench shall be left uncovered overnight per Designated Biologist or Biological Monitor available for the morning survey.</p>	ITP Condition # 8.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46 cont.	<p>iii. If the excavation is greater than 6 feet deep, then at all times of the year, two feet of hardware cloth (or another material approved by CDFW in writing for this purpose for this Project) shall extend beyond the edge of the cover boards. The hardware cloth shall be secured to the edge of the cover boards and to the ground to discourage Covered Species from digging under the edge and becoming injured in a fall. The hardware cloth shall conform to solid ground so that gaps do not exist between the cloth and the ground. Covering gaps with dirt or laying the hardware cloth over loose soil will not satisfy this requirement. The outer edges of the hardware cloth shall be secured to the ground with re-bar, minimum 10-inch soil staples, or similar means every 12 inches to prevent Covered Species from lifting the edges.</p> <p>iv. If a situation is encountered that this measure does not anticipate and alternative methods of preventing entrapment or injury in excavations are warranted, then Permittee shall request and obtain CDFW's written concurrence prior to implementing the alternative.</p>	ITP Condition # 8.2 (cont.)			
47	<u>Materials Inspection.</u> Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure on its own or relocated as per the Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.8 above before moving and utilizing the structure.	ITP Condition # 8.3	Entire Project	Permittee	
48	<u>Equipment Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.8.	ITP Condition # 8.4	Entire Project	Permittee	
49	<u>Delineation of Ingress and Egress Routes.</u> All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.	ITP Condition # 8.5	Entire Project	Permittee	
50	<u>Road Construction.</u> New and existing roads that are planned for either construction or demolition shall not extend beyond the Work Area. All vehicles passing or turning around shall do so within the Work Area or in previously disturbed areas.	ITP Condition # 8.6	Entire Project	Permittee	
51	<u>Covered Species Observations.</u> During construction, operation, and maintenance of all phases, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.	ITP Condition # 8.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	<u>Record of Handling and Covered Species Reporting.</u> All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.6. This information should also be included in the Quarterly and Final Compliance Reports.	ITP Condition # 8.13	Entire Project	Permittee	
53	<u>Dry Season Work.</u> Fill or other ground-disturbing activities within or immediately adjacent to the Covered Species' potential breeding habitat (e.g., within 562 meters of known or potential Covered Species breeding habitat) shall be confined to the dry season from June 1 to October 31.	ITP Condition # 8.14	Entire Project	Permittee	
54	<u>Precipitation.</u> The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Site. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, grading, excavation, etc.) has yet to finish until a zero percent chance of rain is forecast. Work may continue 24 hours after the rain ceases and there is a zero percent chance of precipitation in the 72-hour forecast. Covered Activities may continue during rainfall events within Work Areas that have been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 8.9 and 8.10 above.	ITP Condition # 8.15	Entire Project	Permittee	
55	<u>Work Hours.</u> Permittee shall confine all construction to daylight hours (sunrise to sunset).	ITP Condition # 8.16	Entire Project	Permittee	
56	<u>Stockpiles.</u> Permittee shall place soil stockpiles where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 8.17	Entire Project	Permittee	
57	<u>Road Construction.</u> New and existing roads that are planned for either construction or demolition shall not extend beyond the Work Area. All vehicles passing or turning around shall do so within the Work Area or in previously disturbed areas.	ITP Condition # 8.18	Entire Project	Permittee	
58	<u>Curbs, Berms, and/or Dikes.</u> Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent Covered Species from exiting the roadway. If curbs are necessary for safety and/or surface runoff, the Permittee shall design them to allow Covered Species to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow Covered Species to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow Covered Species passage.	ITP Condition # 8.19	Entire Project	Permittee	
59	<u>Fieldwork Code of Practice.</u> To ensure that the Designated Biologist(s) do not convey disease between Work Areas, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.20	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
60	<p>Covered Species Injury. Permittee shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittee shall identify a CDFW approved wildlife rehabilitation or veterinary facility or other qualified individual before starting Covered Activities to bring such injured Covered Species for care or treatment. If a Covered Species is injured as a result of Project related activities, the Designated Biologist shall immediately take it to the CDFW approved wildlife rehabilitation or veterinary facility. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center, 2001). Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. Notification shall include the date, time, location and circumstances of the incident and the name of the facility where the animal was taken. If an injured Covered Species is found during Project construction, the individual shall be evaluated by the Designated Biologist(s) who shall then immediately contact the CDFW Regional Representative, via e-mail and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured Covered Species shall be placed in a shaded container and kept moist, then the following steps shall be taken:</p> <ol style="list-style-type: none"> 1) If the injury is minor or healing and the Covered Species is likely to survive, the Covered Species shall be released immediately in accordance with the CDFW approved Covered Species Mortality Reduction and Relocation Plan as identified in Condition of Approval 7.8. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. 2) If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility followed by notification as described in Condition of Approval 7.9. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. 	ITP Condition # 8.21	Entire Project	Permittee	
61	<p><u>Notification of Take or Injury.</u> Permittee, their employees, agents, contractors or sub-contractors shall immediately notify the Designated Biologist(s) 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(s) shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification shall include information regarding the location, species, and number of animals taken or injured and the ITP tracking number. Following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the CTS, photographs of the location and the CTS, explanation as to the cause of take or injury, and any other pertinent information. After initial notification, CDFW will direct Permittee as to the final disposition of the carcass.</p>	ITP Condition # 7.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	<u>Notification of Relocated CTS.</u> The Designated Biologist or Designated Representative shall notify CDFW if any CTS are relocated pursuant to the Covered Species Mortality Reduction and Relocation Plan and/or per Condition of Approval 8.13 below. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243 4005. 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 two 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. For relocated animals, the report shall include photos and information regarding the size, weight, life history stage, location of release and any other details required by the Covered Species Mortality Reduction and Relocation Plan.	ITP Condition # 7.10	Entire Project	Permittee	
63	<u>Designated Biologist/Biological Monitor Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist(s) and/or Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
POST-CONSTRUCTION					
64	<u>Refuse Removal.</u> Upon completion of Covered Activities <i>in each Development Phase</i> , Permittee shall remove from the Project Area and properly dispose of all and 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 # 6.16	Post-construction	Permittee	
65	<u>Final Mitigation Report.</u> No later than 45 days after completion of all mitigation measures, 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 Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this 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; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the 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.	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	
66	<u>As-Built Development Plans.</u> Permittee shall submit as-built development plans to CDFW within sixty (60) days of completing construction on each Development Phase. The as built plan sheets shall delineate and quantify the extent of permanent Project features, including roads, trails, lots, public and commercial buildings, dwellings, infrastructure, and all other facilities and features associated with that Development Phase. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from survey data acquired after construction of that phase and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.	ITP Condition # 7.11	Post-construction of each Development Phase		

Attachment 2

The Declining Amphibian Task Force Fieldwork Code of Practice

A code of practice, prepared by the Declining Amphibian Task Force (DAPTF) to provide guidelines for use by anyone conducting field work at amphibian breeding sites or in other aquatic habitats. Observations of diseased and parasite-infected amphibians are now being frequently reported from sites all over the world. This has given rise to concerns that releasing amphibians following a period of captivity, during which time they can pick up unapparent infections of novel disease agents, may cause an increased risk of mortality in wild populations. Amphibian pathogens and parasites can also be carried in a variety of ways between habitats on the hands, footwear, or equipment of fieldworkers, which can spread them to novel localities containing species which have had little or no prior contact with such pathogens or parasites. Such occurrences may be implicated in some instances where amphibian populations have declined. Therefore, it is vitally important for those involved in amphibian research (and other wetland/pond studies including those on fish, invertebrates and plants) to take steps to minimize the spread of disease and parasites between study sites.

1. Remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires and all other surfaces. Rinse cleaned items with sterilized (e.g. boiled or treated) water before leaving each study site.
2. Boots, nets, traps, etc., should then be scrubbed with 70% ethanol solution (or sodium hypochlorite 3 to 6%) and rinsed clean with sterilized water between study sites. Avoid cleaning equipment in the immediate vicinity of a pond or wetland.
3. In remote locations, clean all equipment as described above upon return to the lab or "base camp". Elsewhere, when washing machine facilities are available, remove nets from poles and wash with bleach on a "delicates" cycle, contained in a protective mesh laundry bag.
4. When working at sites with known or suspected disease problems, or when sampling populations of rare or isolates species, wear disposable gloves and change them between handling each animal. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately and the end of each field day.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.



**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: _____

ATTACHMENT 3B
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)

Attachment 4

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

California 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 or the Principal Sum will be reduced upon receipt by us of Certificate of Cancellation/Reduction, 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

CERTIFICATE FOR DRAWING

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

Re: Irrevocable Standby Letter of Credit No. **[number issued by financial institution]**

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 of the above-referenced 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 this ____ day of **[month]**, **[year]**.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[Insert one of the following: "Director" **or** "General Counsel" **or** "Regional Manager, [Name of Regional Office]" **or** "Chief, Habitat Conservation Planning Branch"]

ATTACHMENT B

CERTIFICATE FOR CANCELLATION/REDUCTION

[**CDFW Letterhead**]

[**Date**]

[**Name and address of financial institution**]

Re: Irrevocable Standby Letter of Credit No. [**number issued by financial institution**]

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 presented documentary evidence of compliance with the following Mitigation Requirement[(s)] referenced in paragraph 3 of the Credit: [**insert brief description of requirement(s) or requirement number(s) completed**]." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. [**Insert one of the following statements:** "CDFW therefore requests the cancellation of the Credit." **or** "CDFW therefore requests a reduction in the Principal Sum in the amount of \$_____, thereby making the new Principal Sum \$_____."]

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[**Insert one of the following:** "Director" **or** "General Counsel" **or** "Regional Manager, [**Name of Regional Office**]" **or** "Chief, Habitat Conservation Planning Branch"]

State of California - Department of Fish and Wildlife

MITIGATION PAYMENT TRANSMITTAL FORM

DFW 1057 (REV.05/18/21)

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: _____	

Please send this form to asbmitigation@wildlife.ca.gov

RECEIVED

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

JUN 14 2019
HABITAT CONSERVATION
PLANNING BRANCH



AMENDMENT NO. 1
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2016-036-04
San Juan Oaks, LLC
San Juan Oaks Specific Plan in San Benito County

INTRODUCTION

On 4 October 2016, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2016-036-04 (ITP) to San Juan Oaks, LLC (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*) (the Covered Species) associated with and incidental to the San Juan Oaks Specific Plan in San Benito County, California (Project). The Project as described in the ITP originally issued by CDFW includes residential neighborhoods accommodating up to 1,084 single-family residences; an amenity center; four community parks; a landscaped open-space common area; a resort hotel; a commercial center; and an assisted living/skilled nursing/memory care center. The Project will include construction and improvement of roadway improvements as well as establishment of both an on-site and off-site agricultural preserve and an open space park. Construction is expected to occur in five phases. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

The Project is divided into five phases, as described in the ITP on page 3. To mitigate for impacts to the Covered Species, the Permittee had intended to either purchase the Habitat Management (HM) Lands required as compensatory mitigation for the entire Project or provide Performance Security for the whole of the Project prior to beginning Covered Activities in Phase 1. However, the high cost of Performance Security served as a deterrent to potential developers.

As a result, in a letter dated September 26, 2018, the Permittee requested that, among other things, the Habitat Management Land Acquisition and Performance Security be apportioned based on the phasing of the Project. The Permittee proposes to mitigate or provide Performance Security in advance of construction for each phase. In addition, the Permittee requested modification of the Project Description to include a higher impact acreage to account for additional development elements not included in the original Project description including an Emergency Vehicle Access road, additional

road improvements, construction of drainage basins, and temporary impacts surrounding each phase of development.

This Major Amendment No. 1 (Amendment) makes the following changes to the existing ITP:

1. Extends the expiration date of the ITP.
2. Changes to the Assessor's Parcel Numbers (APNs) included in the Project Location description.
3. Updates the Project description to omit mention to Del Webb and replaces it with the term "active adult community."
4. Updates the Project description to account for 26 acres of additional impact comprised of the following:
 - a. Temporary impacts within buffers surrounding individual project phases;
 - b. Improvements to San Juan Oaks Drive, including road widening and creation of a bike lane;
 - c. Creation of drainage basins;
 - d. Drilling new water supply wells, improving an existing well access road, and constructing a pump house;
 - e. Creating a community garden and dog park;
 - f. Grading for a potential fire station;
 - g. Expanding the areal extent of the commercial area along San Juan Oaks Drive;
 - h. Filling a potential Covered Species breeding pond.
5. Redefines the term Work Area as referenced in Condition of Approval 6.10.
6. Clarifies habitat delineation requirements outlined in Condition of Approval 6.11.

7. Clarifies Conditions of Approval 6.12, 6.13, 6.16, 7.1, and 7.3 with regard to Project phasing.
8. Modifies Condition of Approval 7.8 to require a protocol for conditional passive exclusion of the Covered Species.
9. Adds Condition of Approval 7.11 which requires submission of As-Built Development Plans following construction of each development phase.
10. Clarifies which burrows should be excavated in Condition of Approval 8.9.
11. Modifies Condition of Approval 8.10 to allow exclusion fencing to be installed simultaneously with small mammal burrow excavation, provided these activities are completed in the dry season.
12. Adds Condition of Approval 8.22 which allows for conditional passive exclusion of the Covered Species in development phases not slated for immediate development.
13. Modifies Conditions of Approval 9 and 10 to allow for phasing of Habitat Management Land Acquisition and Performance Security requirements; respectively.
14. Updates and replaces the Mitigation Monitoring and Reporting Program (MMRP) (Attachment 1).

AMENDMENT

The ITP is amended as follows (amended language in ***bold italics***; deleted language in ~~strikethrough~~):

1. The first paragraph under Effective Date and Expiration Date of this ITP, first page of the ITP, shall be amended to read:

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 ***September 30, 2030*** ~~September 30, 2026~~.

2. The Project Location, on page 2, shall be amended to read:

The San Juan Oaks Specific Plan (Project) is located at 3825 Union Road, about 3 miles southwest of the City of Hollister and approximately 1 mile south of the intersection of Highway 156 and Union Road (See Figure 1). Rancho San Justo land grant, Township 13S, Range 5E; APNs **018-190-023, 018-190-033, 018-190-034, 018-200-056, 018-200-057, 018-200-058, 021-140-046, 021-140-053, 021-140-054, 021-190-006, 021-190-017, 021-190-030, 021-190-031, 021-190-032, and 023-010-074** ~~18-19-30, 18-19-31, 18-19-23, 18-20-53, 18-20-54, 21-14-46, 21-14-47, 21-19-6, 21-19-14, 21-19-15, 21-19-17, 21-19-22, 23-01-74~~. The Project encompasses approximately 1,993 acres within the foothills of the Gabilan Range of California's central coastal mountains at the southeastern end of the San Juan Valley (See Figure 2).

3. The Project Description, on pages 2 through 3, shall be amended to read:

San Juan Oaks, LLC, currently operates an 18-hole public golf course and clubhouse on the property. The Project will add two components to the existing golf course and club house on the property as part of a 1,993-acre specific plan, the **active adult community** Del Webb component on the west side of the San Juan Oaks property and the San Juan Oaks component on the east side of the property. The proposed Project will contain **175.6** ~~175.8~~ acres of residential neighborhoods accommodating up to 1,084 single family detached residential units with an average density of six (6) dwelling units per net acre. One thousand seventeen of the single family lots will be located within the **active adult community** Del Webb component of the project. Sixty-seven lots will be constructed in the San Juan Oaks component. Of these, 37 lots will be constructed south and east of the existing clubhouse along a new roadway which will be an extension of San Juan Oaks Drive. Thirty single family lots will be constructed south of the proposed neighborhood commercial center (described below) and the existing golf maintenance facility. The **active adult community** Del Webb component also includes a 17,500 square foot (sf.) to 25,000 (sf.) Amenity Center located on two parcels totaling **approximately 11** ~~10.2~~ acres located at the southern edge of the core residential community, four **neighborhood** community parks totaling **6.6** ~~6.7~~ acres, **two community parks totaling 16.8 acres**, and a landscaped open space common area totaling **141** ~~140.4~~ acres. In addition to the 67 lots that will be constructed, the San Juan Oaks component includes a 200-room resort hotel on **34.6** ~~34.7~~ acres, a 65,000 sf. neighborhood commercial center on 14.1 acres, and an approximately 4-acre assisted living/skilled nursing/memory care facility with up to 100 beds. On-site

roadway improvements include both extension of existing roadways and the construction of new roadways within the project site. The existing San Juan Oaks Drive will be **widened and** extended approximately 4,000 feet east, **resulting in 1.1 acres of impact**, to provide access to 37 new conventional residential lots **and a resort hotel**. New onsite roadways will be constructed to service the Neighborhood Commercial area and the residential lots to the south, and for the **active adult community** Del Webb component **to the west**. **An approximately one (1) mile-long Emergency Vehicle Access (EVA) road connecting the Project area with State Route 156 will be established on an existing easement over a farm road through agricultural lands to the north.** The project would include the creation of a **41.4- 45.3** acre on-site agricultural preserve and a 153.5-acre off-site agricultural preserve. **Thirteen acres of the 16.8 acres that will be developed as a community park are shared within the agricultural preserve as a passive use. Two acres of the agricultural preserve could also be dedicated as a public facilities site.** ~~An approximately 25-acre open space park will also be created on the easterly hills of the property, above the commercial area adjacent to the existing golf course.~~ The existing golf course and clubhouse would remain largely unchanged, with some minor renovations. A conservation easement would be dedicated over approximately 1,218 acres of the site, which would be managed as a permanent wildlife habitat area.

Development and construction activities will occur in five phases (**Development Phases**), which are intended to be implemented sequentially over approximately eleven consecutive years, from **2019** 2016 through **2030** 2026. However, specific build-out could change based on market conditions, construction scheduling, etc. Development of each phase will include all infrastructure, services, facilities and amenities needed to serve the uses and structures within that phase.

During construction, Project activities will include grubbing, excavation, and mass grading within the development envelope **and golf course facilities; grading and fill of an approximately 0.29-acre pond;** heavy equipment staging; stockpiling of soils; materials transport, laydown, and storage; trench digging and backfilling to install subsurface utilities; existing road paving and improvements; construction of new roads, dwelling units, public buildings, and recreational facilities; **installation of drainage basins and related improvements;** construction of the water supply distribution system and wastewater collection system; tree and other vegetation removal and trimming; fencing installation; and landscaping and re-vegetation of green space strips. **Activities occurring within buffer areas surrounding each Development**

Phase that are expected to cause temporary impacts include movement, storage, and staging of equipment as well as temporary grading.

Equipment needed to perform the above Project activities include bulldozers, backhoes, motor graders, hovel scrapers, water trucks, front-end loaders, concrete pumpers, pavers, rollers, and haul trucks.

4. The Impacts of the Taking on the Covered Species, on pages 3 through 5, shall be amended to read:

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 grubbing, excavation, and mass grading within the development envelope ***and golf course facilities; grading and fill of an approximately 0.29-acre pond which has the potential to serve as breeding habitat for the Covered Species; heavy equipment movement and staging; stockpiling of soils; materials transport, laydown, and storage; ground compaction; compaction from equipment and materials storage; trench digging and backfilling to install subsurface utilities; existing road paving and improvements; construction of new roads, dwelling units, public buildings, drainage basins and related improvements, and recreational facilities; construction of the water supply wells and distribution system and wastewater collection system; tree and other vegetation removal and trimming; fencing installation; and landscaping and re-vegetation of green space areas (Covered Activities).***

Covered Activities may result in incidental take of individuals of the Covered Species in the form of mortality ("kill") from vehicle/equipment strikes during site preparation and hauling of materials and spoils; collapse or excavation of occupied burrows that results in crushing or suffocation of underground individuals during vegetation removal, grubbing, cut/fill, grading, compaction, and trenching; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during vegetation, top soil, or soil compaction, grading activities, and development of roadbeds, structure building pads, and other surface infrastructure; entrapment and burial within trenches for utilities, open pipelines, or uncovered excavations; crushing by equipment; and vehicle strikes on access roads due to increased Project-related traffic. Incidental take of individuals of the Covered Species may also occur from Covered Activities in the form of pursue, catch, capture, or attempt to do so through the capture or entrapment in holes or trenches, by uncovering through the excavation of burrow systems, by corralling into a confined area when

barrier fencing is constructed, and when individuals are relocated out of harm's way for mortality reduction as required by this ITP. The areas where authorized take of the Covered Species is expected to occur include: APNs **018-190-023, 018-190-033, 018-190-034, 018-200-056, 018-200-057, 018-200-058, 021-140-046, 021-140-053, 021-140-054, 021-190-006, 021-190-017, 021-190-030, 021-190-031, 021-190-032, and 023-010-074** ~~18-19-30, 18-19-31, 18-19-23, 18-20-53, 18-20-54, 21-14-46, 21-14-47, 21-19-6, 21-19-14, 21-19-15, 21-19-17, 21-19-22, and 23-01-74~~ (collectively, the Project Area).

The Covered Species has been documented from at least six ponds on the San Juan Oaks property since 1994. In November 2005 and February 2006, several drift fence and pitfall traplines were installed to study overland movement and determine numbers of the Covered Species moving to and from ponds near the proposed first phase development area around the existing golf course. Thirty-one individuals were captured on 10 nights between December 2, 2005 and March 4, 2006. Data from the capture locations reveals use of upland habitat features by the Covered Species on the property. Individuals were captured in all upland traplines, indicating that the Covered Species was sheltering in or migrating through grassland areas proposed for the first phase of development around the golf course. Data from pond traplines and observations at some ponds indicated that at least two small seasonal ponds adjacent to the golf course supported small breeding populations.

Ponds that were not found to contain larvae or individuals may support the Covered Species in some breeding seasons because of their proximity to other known habitat. The open grassy hills around the golf course act as dry season aestivation habitat, especially in areas of ground squirrel activity. It is likely that the ponds act as a habitat complex in that the Covered Species can utilize some or all of the potential breeding ponds during different breeding seasons depending on precipitation patterns, and the existing golf course allows for movement of the Covered Species from the northeastern ponds to the southeastern ponds around the course.

The Project is expected to cause the permanent loss of **409 383** acres of upland habitat for the Covered Species (See Figure 3). ***The Project is also expected to cause the temporary loss of 43.6 acres of upland habitat.*** 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 ground disturbance, equipment operation, and traffic; stress

resulting from capture and relocation; increased exposure or stress from disorientation; introduction or spread of invasive species; and long-term effects due to displacement from preferred habitat, loss of foraging habitat, changes in drainage patterns that favor different vegetative growth, increased pollution, increased competition for food and space, loss of breeding and burrowing habitat used for shelter, reproduction, and escape cover and increased vulnerability to predation. Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization. The areas where authorized take of the Covered Species is expected to occur include the entire Project Area.

5. Condition of Approval 6.10, on page 8, shall be amended to read:

Delineation of Work Area Boundaries. Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags before starting Covered Activities. The Work Area is defined as ~~a discrete zone along any part of the active phase of the Project Area where Covered Activities will occur.~~ Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in each Work Area. Wildlife exclusion fencing shall not be installed along lengthy linear Work Areas (e.g., access roadways) to prevent impacts to Covered Species dispersing through the area during migratory activities.

6. Condition of Approval 6.11, on page 8, shall be amended to read:

Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat ***until construction of that particular Development Phase is set to begin and meets all other requirements to proceed with Covered Activities.***

7. Condition of Approval 6.12, on page 8, shall be amended to read:

Project Access. Project-related personnel shall access the Project Area using existing routes, ***dedicated routes for each Work Area,*** 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 ***within current boundaries for each Work Area including***

established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area **or the current boundaries for each Work 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.

8. Condition of Approval 6.13, on page 8, shall be amended to read:

Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the **Work Area(s) in each Development Phase** Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked **Work** Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.

9. Condition of Approval 6.16, on page 9, shall be amended to read:

Refuse Removal. Upon completion of Covered Activities **in each Development Phase**, Permittee shall remove from the Project Area and properly dispose of all and 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.

10. Condition of Approval 7.1, on page 9, shall be amended to read:

Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities **within each Development Phase** and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities **within each Development Phase**.

11. Condition of Approval 7.3, on page 9, shall be amended to read:

Compliance Monitoring. The Designated Biologist shall be on-site daily at each Work Area until the pre-activity clearance surveys (Condition of Approval 8.7), small mammal burrow excavation (Condition of Approval 8.9), Covered Species exclusion fence installation (Conditions of Approval 8.10 and 8.11), and initial

grading activities are complete. The Designated Biologist(s) and/or Biological Monitor(s) 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) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the **Work Area(s) of each Development Phase 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. The Designated Biologist(s) and/or Biological Monitor(s) shall conduct compliance inspections a minimum of once a week during periods of inactivity and after clearing, grubbing, and grading are completed.

12. Condition of Approval 7.8, on pages 11 through 12, shall be amended to read:

Covered Species Mortality Reduction and Relocation Plan. The Designated Biologist shall prepare a Covered Species Mortality Reduction and Relocation Plan and submit it to CDFW for approval prior to the beginning of Covered Activities. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for the Covered Species; the area within 562 meters of known or potential breeding habitat for the Covered Species; an identification of survey, excavation, capture, handling, and relocation methods; **a protocol for the conditional passive exclusion of the Covered Species over the deferred Development Phases (Condition of Approval 8.22); description of exclusionary devices and their use to prevent CTS use of the planned drainage basins**; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless approved in writing by CDFW and works under the direct supervision of the Designated Biologist.

13. The ITP shall be amended to include Condition of Approval 7.11, which shall read:

As-Built Development Plans. Permittee shall submit as-built development plans to CDFW within sixty (60) days of completing construction on each Development Phase. The as built plan sheets shall delineate and quantify the extent of permanent Project features, including roads, trails, lots, public and commercial buildings, dwellings, infrastructure, and all other facilities and features associated with that Development Phase. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from survey data acquired after construction of that phase and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.

14. Condition of Approval 8.9, on page 16, shall be amended to read:

Small Mammal Burrow Excavation. In the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat, all small mammal burrows flagged per Condition of Approval 8.8 that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. ***Burrow excavation shall be conducted under the direct supervision of the Designated Biologist(s) and in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.8).*** This excavation requirement applies regardless if the burrow is located within the Work Area or the Work Area's 50-foot buffer zone, ***with the exception of those burrows outside of the Permittee's access which do not have to be excavated.*** The Designated Biologist shall relocate any live Covered Species discovered during burrow excavation in accordance with the Covered Species Mortality Reduction and Relocation Plan required in ITP Condition of Approval 7.8 above. Excavation shall occur no more than 14 days after the completion of the Covered Species pre-construction surveys as described in Condition of Approval 8.7 above.

15. Condition of Approval 8.10, on page 16, shall be amended to read:

Covered Species Wildlife Exclusion Fencing. Prior to any surface disturbance, Permittee shall install temporary wildlife exclusion fencing (exclusion fence) around the perimeter of the applicable Work Area(s) to prevent Covered Species migrating into the Work Area. Fencing material and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed ***after*** small mammal burrows

inside the planned fence zone are ~~hand~~ excavated by the Designated Biologist in accordance with Condition of Approval 8.9 above to prevent entrapment of Covered Species within the Work Area. ***Alternatively, burrow excavation and installation of exclusion fencing may occur simultaneously, if conducted entirely within the dry season (June 1 to October 31; or before the first fall rains).*** The exclusion fence shall be buried a minimum of four inches below ground surface and shall be equipped with one-way exits to avoid entrapment of Covered Species and other amphibians or reptiles. Fencing should be designed to funnel Covered Species towards one-way exits to allow for proper access. Refuge opportunities (e.g., cover boards) shall be provided along or near both sides of the exclusion fence. Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows in the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be ~~hand~~ excavated as described in Condition of Approval 8.9 above prior to commencing fence installation. Permittee shall install temporary exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, temporary fencing shall not be installed simultaneously at all Work Areas, and shall be removed immediately upon completion of Covered Activities in each fenced Work Area. Refuge areas shall be inspected each morning during and after rain events. Animals found within the interior fence shall be relocated in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.

16. Condition of Approval 8, entitled "Take Minimization Measures", beginning on page 12 of the ITP shall be amended to include Condition of Approval 8.22, which shall read:

Phased Passive Relocation. Development and construction activities will occur in five Development Phases. As an alternative to burrow excavation and active relocation methods described in Condition of Approval 8.9 above, phased passive relocation may be proposed in areas not slated for immediate development. Phased passive relocation shall occur only with express written authorization from CDFW. Permittee's plans for passive relocation of these portions of the Project Area will be outlined in, and conducted in accordance with, the CDFW-approved Species Mortality Reduction and Relocation Plan required by Condition of Approval 7.8, as well as the Project's fencing plan.

17. Condition of Approval 9, on page 20, shall be amended to read:

Habitat Management Land Acquisition:

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. Trenham and Shafer in 2005, as documented in Ecological Applications, Volume 15, pages 1158–1168, "Amphibian upland habitat use and its consequences for population viability," found that 95 percent of California tiger salamander utilizing a specific breeding site exploit the upland refugia habitat within 630 meters. ~~One hundred sixty-two acres~~ **Approximately one hundred-seventy acres (170 acres)** of the Covered Species upland habitat that will be **permanently** impacted by the Project **and 37.4 acres that will be temporarily impacted by the Project** occur within 630 meters of known or potential breeding sites and the remaining ~~239 224~~ **permanently** impacted acres **and 6.2 temporarily impacted acres** occur beyond that threshold.

To meet this requirement, Permittee shall provide for both the permanent protection and management of the on-site 1,218-acre wildlife habitat area (Figures 4 and 5) included in the Project description (all or portions of APNs 018-190-033, 018-200-056, ~~018-200-057~~, 018-200-058, 021-140-054, 021-190-006, 021-190-017, 021-190-030, 021-190-031, 021-190-032, ~~023-010-009~~ **023-010-074**) as Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. If the Permittee is unable to complete the permanent protection and management of the aforementioned HM Lands, Permittee shall purchase ~~1,039 896~~ acres of Covered Species credits from a CDFW approved mitigation or conservation bank (Condition of Approval 9.2). ~~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 10 below for all uncompleted obligations.~~

Phasing of Mitigation

Representing mitigation for the Project impacts, the HM lands will be set aside under permanent conservation easement, and their management in perpetuity funded, by phase, in advance of the coincident Development Phase, in accordance with the Development/Mitigation Schedule presented in Table 1, below.

For each of the first four Development Phases, prior to initiating ground- or vegetation-disturbing or other Covered Activities for that phase, the Permittee shall acquire and permanently preserve (e.g., transfer title or record conservation easements or purchase Covered Species credits from a CDFW-approved mitigation or conservation bank) a minimum amount of Covered Species habitat in the amounts summarized in Table 1 and as described in Conditions of Approval 9.2 and 9.3 below, for the particular Development Phase under consideration. Phasing of mitigation requires the Permittee to acquire and permanently preserve additional HM lands in an amount equal to 5 percent of the amount required for that phase, as reflected in Table 1 below. For example, if a Development Phase would require 100 acres to fully-mitigate its impacts if mitigation were not phased, the phased HM lands requirement would be to acquire a minimum of 105 acres [100 x 1.05]) prior to ground disturbance in accordance with the Development/Mitigation Schedule presented in Table 1 below. In addition to the requirement outlined immediately above, the Permittee shall deposit sufficient funds to manage the HM lands for the particular mitigation phase, with the required enhancement and endowment amount approved by CDFW for that mitigation phase as specified in Conditions of Approval 9.3, 9.4 and 9.5.

Prior to initiating the fifth and final Development Phase, the remainder of the 1,218 acres of HM lands shall be permanently protected (e.g., transfer title or record conservation easements or purchase Covered Species credits from a CDFW-approved mitigation or conservation bank) and the remaining required enhancement and endowment funds deposited in accordance with Conditions of Approval 9.3, 9.4, and 9.5 and Table 1, below. The acres of disturbance for each of the five Development Phases shall not permanently impact a greater amount of acreage than summarized in Tables 1 and 2, for a maximum cumulative Project disturbance of 409.0 acres of permanent impacts and 43.6 acres of temporary impacts to Covered Species habitat.

Table 1. Project Development/Mitigation Phase Schedule

Project Development Phase	Project Mitigation Phase
<i>Development of Phase 1 will involve construction in the development envelope encompassing a total of 171.1 acres of suitable Covered Species habitat. Of these, a total of 162.9 acres will be permanently impacted and 8.2 acres will be temporarily impacted.</i>	<i>To mitigate for Development Phase 1-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 398.2 acres of HM lands.</i>
<i>Development Phase 2 will involve construction in development envelope and associated open space encompassing a total of 59.3 acres of suitable Covered Species habitat. All 59.3 acres will be permanently impacted.</i>	<i>To mitigate for Development Phase 2-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 116.9 acres of HM lands.</i>
<i>Development Phase 3 will involve construction in the development envelope and associated space encompassing a total of 63.7 acres of suitable Covered Species habitat. All 63.7 acres will be permanently impacted.</i>	<i>To mitigate for Development Phase 3-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 117.8 acres of HM lands.</i>
<i>Development Phase 4 will involve construction in the development envelope and associated space encompassing a total of 68.9 acres of suitable Covered Species habitat. All 68.9 acres will be permanently impacted.</i>	<i>To mitigate for Development Phase 4-related impacts to the Covered Species (and provide the 5% contingency acreage), the Permittee will permanently protect and fund the perpetual management of a minimum of 205.3 acres of HM lands.</i>
<i>Development Phase 5 will involve construction in the development envelope and associated space encompassing a total of 89.6 acres of suitable Covered Species habitat. Of these, a total of 54.2 acres will be permanently impacted and 35.4 acres will be temporarily impacted.</i>	<i>To mitigate for Development Phase 5-related impacts to the Covered Species, the Permittee will permanently protect and fund the perpetual management of a minimum of 379.8 acres of HM Lands, representing the remainder of the wildlife habitat area.</i>

Project Development Phase	Project Mitigation Phase
452.6-acre disturbance	1,218 acres HM lands

As an alternative to permanently preserving the HM lands and providing for their enhancement and endowment, Permittee may provide CDFW with performance security for a particular Development Phase in the form of an irrevocable letter of credit or another form of security approved in advance in writing by CDFW's Office of General Counsel (Performance Security) for the preservation and perpetual management of the HM lands including Start-up Activities, Interim Management (Initial and Capital), and the Endowment Fund as described in Conditions of Approval 9.1 and 10 and the Performance Security Funding Schedule summarized in Table 2, below.

Table 2. Performance Security Funding Schedule

Development Phase	Acreage of Impact	Minimum HM lands Preservation Acreage¹	Minimum Security Funding²
1	171.1 acres	398.2 acres	\$5,302,401.58³
2	59.3 acres	116.9 acres	\$1,553,108.85
3	63.7 acres	117.8 acres	\$1,565,066.06
4	68.9 acres	205.3 acres	\$2,727,572.69
5	89.6 acres	200.7 acres	\$2,666,458.05
TOTAL	452.6 acres	1,038.9 acres	\$13,814,607.23

¹ Minimum HM lands preservation acreage for Development Phases 1 through 4 includes 5 percent contingency acreage.

² Minimum Performance Security funding pro-rated on the average estimated cost per acre of security for a minimum of 1,038.9 acres of HM lands including land acquisition, start-up, interim, and long-term costs as identified in Condition of Approval 9.1. Minimum security funding is based on 2016 cost estimates. Beginning January 1, 2017 the minimum Performance Security funding shall be adjusted for each Development Phase in accordance with Condition of Approval 9.4.2.

³ Phase 1 includes a \$12,000.00 account set up fee as identified in Condition of Approval 9.1.5.

If the Performance Security option is used, the Permittee shall complete the permanent protection and funding for perpetual management of HM lands or provide proof of purchase of Covered Species acreage credits from a CDFW-approved mitigation or conservation bank to offset impacts for that particular Development Phase, as described above, within 18 months of the effective date of CDFW receiving the Performance Security for that phase. All other phases shall also proceed in this manner if the Performance Security option is used. In other words, at no time may a Development Phase begin before one of the following have been satisfied: (1) the permanent protection and funding for perpetual management of the HM lands for the Development Phase is complete; (2) proof of purchase is provided that Covered Species acreage credits have been acquired for that phase; or (3) Performance Security is provided to CDFW pursuant to Condition of Approval 10 below.

18. Condition of Approval 9.1, on page 20, and Conditions of Approval 9.1.1 through 9.1.5, on pages 20 through 21, shall be amended to read:

Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows. ***The cost estimates are based on 2016 evaluations; therefore beginning January 1, 2017 the start-up costs, interim management funding, and long-term management funding shall be adjusted and increased annually for each Development Phase based on the most recent Gross Domestic Product Price Deflator (GDPPD), as published by the United States Bureau of Economic Analysis, until the time of deposit, in accordance with Condition of Approval 9.4.2 and 10.1 below.***

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated ***in 2016 dollars*** at \$10,000.00/acre for ***1,038.9*** 896 acres: ***\$10,389,000.00*** \$8,960,000.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements and include real-estate fees;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated ***in 2016 dollars*** at ***\$284,648.21 (\$273.99/acre)*** \$245,493.00;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated ***in 2016 dollars*** at ***\$190,949.82 (\$183.80/acre)*** \$164,681.00;

9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated **in 2016 dollars** at \$2,828.00/acre for **1,038.9** 896 acres: **\$2,938,009.20** ~~\$2,533,888.00~~. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.5. 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 9.5, estimated **in 2016 dollars at a minimum of** \$12,000.00.

19. Condition of Approval 9.2, on page 21, shall be amended to read:

Covered Species Credits. Permittee shall purchase **1,039** ~~896~~ acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities **for Development Phases 1 through 5 as depicted in Table 2 above, or within 18 months of the effective date of CDFW receiving the Performance Security for that phase** ~~no later than 18 months from the issuance of this ITP if Security is provided pursuant to~~ Condition of Approval 10 below.

20. Condition of Approval 9.3.5, on page 22, shall be amended to read:

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 <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); **the management plan should recognize anticipated phasing of the acquisition of mitigation lands (Mitigation Phase), and provide interim management objectives and tasks (including monitoring), and long term management objectives and tasks (including monitoring), for each projected Mitigation Phase, in which no Mitigation Phase's management relies on aspects of management of future phases;** (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing **of each Mitigation Phase;** (5) conducting litter removal; (6) conducting initial habitat restoration or

enhancement, if applicable, **of each Mitigation Phase**; and (7) installing signage **for each Mitigation Phase**.

21. Condition of Approval 9.4, on pages 23 through 24, shall be amended to read:

Endowment Fund. If Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, then 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 9.3.5. 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. ***For this ITP, which anticipates that the Endowment will be funded in phases, the interim management period for each Mitigation Phase is three years after deposit of that phase's funds; and funds will be available for long-term management and monitoring for each Mitigation Phase three years after that phase's funds were deposited.***

22. Condition of Approval 9.4.1, on page 24, shall be amended to read:

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). ***Once an Endowment Manager has been identified, the endowment amount has been calculated per Condition of Approval 9.4.2, and funds deposited per Condition of Approval 9.4.3 for the first Mitigation Phase, changes in the Endowment Manager for subsequent Mitigation Phases shall be allowed only with a revised endowment fund amount approved in writing by CDFW, calculated per Condition of Approval 9.4.2.***

23. Condition of Approval 9.4.2, on page 24, shall be amended to read:

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). ***A separate PAR shall be prepared for the HM lands which are permanently protected for each Mitigation Phase approved by CDFW per Condition of Approval 9.3.1.*** Permittee shall submit to CDFW for review and approval the results of ***each*** the PAR before transferring funds to the Endowment Manager. ***The cost estimates in the PAR are based on evaluations at the time the analysis is completed. In order to take into consideration the time lapse and inflationary influences between development of the PAR and the subsequent deposit of the endowment funds for each Mitigation Phase, the endowment costs for each Mitigation Phase shall be adjusted annually based on the most recent GDPPD. All calculations used to derive the newly adjusted endowment amount shall***

be submitted to CDFW Regional Representative for written approval no less than 30 days prior to deposit into the Endowment Fund.

24. Condition of Approval 9.4.2.2, on page 25, shall be amended to read:

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:

- 9.4.2.2.1. 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.
- 9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding ***for each Mitigation Phase.***
- 9.4.2.2.3. 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.
- 9.4.2.2.4. ***Apportioning Costs Between Phases. The PAR shall identify costs by Mitigation Phase, and not simply pro-rate costs by acre. Certain costs may need to be allocated to the first Mitigation Phase, such as equipment purchasing/leasing; or to specific properties according to features of the property. Each Mitigation Phase's PAR shall be estimated such that stand-alone management, monitoring and reporting may occur.***

25. Condition of Approval 9.4.3, on page 27, shall be amended to read:

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 ***(and each phase of this 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, ***and each phase of this 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.

26. Condition of Approval 10, on pages 25 through 27, shall be amended to read:

Performance Security

Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 10.1. Security Amount. The ***total Security for the Project as a whole (1,038.9 acres of HM lands)*** shall be in the amount of ***\$13,814,607.23*** ~~\$11,916,062.00~~ ***in 2016 dollars***. This amount is based on the cost estimates identified in Condition of Approval 9.1 above. ***Because the Project is phased, and separate Security may be deposited for each Development Phase, the Security amounts shown in Table 2 above shall increase annually as per the GDPPD until the time of Security posting as approved by CDFW. The Security amounts in Table 2 are based on the cost estimates identified in Condition of Approval 9.1 above. Security for the initial Development Phase shall be deposited with CDFW before Covered Activities begin or within 30 days of this ITP's effective date, whichever occurs first. Security for later Development Phases shall be provided to CDFW before Covered Activities begin in those respective phases.***
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first, ***or Security shall be provided to CDFW before Covered Activities begin for each of five Development Phases as described in Condition of Approval 9 and shown in Table 2 above.***

- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. 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.
- 10.7. 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 **for each Development Phase**, and record any required conservation easements, **and provide endowment funding** no later than 18 months **from the date on which Security was received by CDFW for each Development Phase of the Project** ~~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.

27. The fourth paragraph, respectively, of the Notices section in the ITP, page 28, shall be amended to read:

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

Major Amendment No. 1
Incidental Take Permit 2081-2016-036-04
SAN JUAN OAKS, LLC
San Juan Oaks Specific Plan

Renée Robison ~~Brandon Sanderson~~
California Department of Fish and Wildlife
1234 East Shaw Avenue ~~3196 South Higuera Street, Suite A~~
Fresno, California 93710 ~~San Luis Obispo, California 93401~~
Telephone (559) 243-4014, extension 274 ~~Telephone (805) 594-6141~~
Fax (559) 243-4020 ~~Fax (805) 542-4609~~

28. MMRP:

The attached amended Mitigation Monitoring and Reporting Program updates and replaces the original Mitigation Monitoring and Reporting Program (MMRP/Attachment 1) of the ITP.

All terms and conditions of the ITP and MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of this Amendment will increase the amount of take of the Covered Species compared to the Project as originally approved; however, through an increase in the minimum number of acres required to be acquired, permanently protected, and perpetually managed, it is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment makes three specific changes to the ITP related to increased take of the Covered Species. First, this Amendment reflects a change in the number of acres permanently and temporarily impacted by Project activities. This change in take assessment is based on changes to the Project description resulting in 26 additional acres of permanent impacts to Covered Species habitat and 43.6 acres of temporary impacts to Covered Species habitat. As a result, this Amendment increases the minimum compensatory mitigation required under Condition of Approval 9 Habitat Management Land Acquisition from 896 acres to 1,038.9 acres. Second, this Amendment more clearly details phasing of project development and gives the Permittee the option to use conditional phased passive relocation of the Covered Species from subsequent development phases as an alternative to burrow excavation and active relocation, thereby minimizing potential for take associated with burrow excavation. Third, this Amendment allows for phasing of Habitat Management Land Acquisition in conjunction with project development phasing. As a condition of phasing Habitat Management Land Acquisition, this Amendment requires an additional 5% contingency acreage for the first four development phases to mitigate temporal impacts associated with deferring Habitat Management Land acquisition.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in October 2016 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) will have no effect on the severity of Project-related impacts on the Covered Species because of the requirement of additional HM Lands and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species. This Amendment acknowledges that San Juan Oaks, LLC needs additional time to complete mitigation measures requiring acquisition and permanent protection of HM Lands. San Juan Oaks, LCC's, continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in October 2016 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the environmental impact report certified by San Benito County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change in the Project as originally approved. However, for the reasons explained above, CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment allows an increase of the amount of authorized take and habitat impacts; allows the option for conditional phased passive exclusion of the Covered Species in development phases not slated for immediate development; and allows the option to phase Habitat Management Land acquisition in conjunction with phased development, constituting a significant change in the scope of the Project. However, by requiring acquisition, protection, and perpetual management of additional Habitat Management land acreage as well as requiring an additional 5% contingency acreage for phasing of Habitat Management Land acquisition, it not expected that this Amendment will increase Project impact on the Covered Species over the long term. As described above, this Amendment requires additional compensatory mitigation and also modifies the ITP to reflect the increased acreage of Covered Species habitat impacted, the revised Project scope, as well as the proportional increase in the Permittee's mitigation obligations. Therefore, this Amendment will significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

Attachment:

ATTACHMENT 1 Mitigation Monitoring and Reporting Program

Major Amendment No. 1
Incidental Take Permit 2081-2016-036-04
SAN JUAN OAKS, LLC
San Juan Oaks Specific Plan

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on

5/20/19



Julie A. Vance
Regional Manager
Central Region

ACKNOWLEDGMENT

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

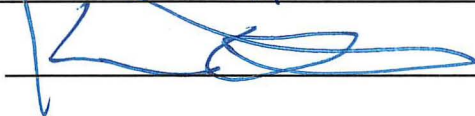
By:

Ken Gimelli

Date:

6/12/19

Printed Name:



Title:

Owner

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT**

INCIDENTAL TAKE PERMIT NO. 2081-2016-036-04

PERMITTEE: San Juan Oaks, LLC

PROJECT: San Juan Oaks Specific Plan

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the 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					
1	Designated Representative. Before starting Covered Activities, Permittee shall designate a representative responsible for communications with CDFW and overseeing compliance with the ITP (Designated Representative). 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 the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologist. Permittee shall submit to CDFW, for approval, the name, qualifications, business address, and contact information of a Designated Biologist(s) at least 14 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. The Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance and in writing by CDFW.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	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 the 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry 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.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	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.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Delineation of Work Area Boundaries. Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags before starting Covered Activities. The Work Area is defined as a discrete zone along any part of the active phase of the Project Area where Covered Activities will occur. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in each Work Area. Wildlife exclusion fencing shall not be installed along lengthy linear Work Areas (e.g., access roadways) to prevent impacts to Covered Species dispersing through the area during migratory activities.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat <i>until construction of that particular Development Phase is set to begin and meets all other requirements to proceed with Covered Activities.</i>	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities <i>within each Development Phase</i> and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities <i>within each Development Phase.</i>	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	Covered Species Mortality Reduction and Relocation Plan. The Designated Biologist shall prepare a CTS Mortality Reduction and Relocation Plan and submit it to CDFW for approval prior to the beginning of Covered Activities. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for the Covered Species; the area within 562 meters of known or potential breeding habitat for the Covered Species; an identification of survey, excavation, capture, handling, and relocation methods; <i>a protocol for the conditional passive exclusion of the Covered Species over the deferred Development Phases (Condition of Approval 8.22): description of exclusionary devices and their use to prevent CTS use of the planned drainage basins;</i> identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling CTS unless approved in writing by CDFW and works under the direct supervision of the Designated Biologist.	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	Pre-Activity Clearance Surveys. No more than 14 days prior to starting ground disturbing Covered Activities in each Work Area, the Designated Biologist shall survey any portions of the Work Area located within 1.3 miles of known or potential Covered Species breeding habitat. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Work Area in accordance with the CDFW approved Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 7.8 above. Permittee shall provide the survey results to CDFW in a written report no more than five (5) days after performing pre-construction surveys, and no less than five (5) days prior to the beginning of Covered Activities within Work Areas of the approved phase.	ITP Condition # 8.7	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows within any portion of a Work Area, or its 50-foot buffer zone, that is within 1.3 miles of known or potential Covered Species breeding habitat (see Condition of Approval 8.7) to alert biological and work crews to their presence. Where feasible, an avoidance buffer of 50 feet or greater around small mammal burrows shall be maintained regardless of whether the burrow is in the Work Area or the associated buffer zone.	ITP Condition # 8.8	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	Small Mammal Burrow Excavation. In the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat, all small mammal burrows flagged per Condition of Approval 8.8 that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. Burrow excavation shall be conducted under the direct supervision of the Designated Biologist(s) and in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.8). This excavation requirement applies regardless if the burrow is located within the Work Area or the Work Area's 50-foot buffer zone, with the exception of those burrows outside of the Permittee's access which do not have to be excavated. The Designated Biologist shall relocate any live Covered Species discovered during burrow excavation in accordance with the Covered Species Mortality Reduction and Relocation Plan required in ITP Condition of Approval 7.8 above. Excavation shall occur no more than 14 days after the completion of the Covered Species pre-construction surveys as described in Condition of Approval 8.7 above.	ITP Condition # 8.9	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	Covered Species Wildlife Exclusion Fencing. Prior to any surface disturbance, Permittee shall install temporary wildlife exclusion fencing (exclusion fence) around the perimeter of the applicable Work Area(s) to prevent Covered Species migrating into the Work Area. Fencing material and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed <u>after</u> small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.9 above to prevent entrapment of Covered Species within the Work Area. <i>Alternatively, burrow excavation and installation of exclusion fencing may occur simultaneously, if conducted entirely within the dry season (June 1 to October 31; or before the first fall rains).</i> The exclusion fence shall be buried a minimum of four inches below ground surface and shall be equipped with one-way exits to avoid entrapment of Covered Species and other amphibians or reptiles. Fencing should be designed to funnel Covered Species towards one-way exits to allow for proper access. Refuge opportunities (e.g., cover boards) shall be provided along or near both sides of the exclusion fence. Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows in the portions of each Work Area to be disturbed that are within 562 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated as described in Condition of Approval 8.9 above prior to commencing fence installation. Permittee shall install temporary exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, temporary fencing shall not be installed simultaneously at all Work Areas, and shall be removed immediately upon completion of Covered Activities in each fenced Work Area. Refuge areas shall be inspected each morning during and after rain events. Animals found within the interior fence shall be relocated in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.	ITP Condition # 8.10	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	Exclusion Fencing Installation. The Designated Biologist shall accompany the exclusion fence construction crew(s) to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the active construction period. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary. Exclusion fence shall be removed immediately upon completion of Covered Activities in each fenced Work Area.	ITP Condition # 8.11	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<i>Phased Passive Relocation. Development and construction activities will occur in five Development Phases. As an alternative to burrow excavation and active relocation methods described in Condition of Approval 8.9 above, phased passive relocation may be proposed in areas not slated for immediate development. Phased passive relocation shall occur only with express written authorization from CDFW. Permittee's plans for passive relocation of these portions of the Project Area will be outlined in, and conducted in accordance with, the CDFW-approved Species Mortality Reduction and Relocation Plan required by Condition of Approval 7.8, as well as the Project's fencing plan.</i>	ITP Condition # 8.22	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
16 15	Habitat Management Land Acquisition. Permittee shall provide for both the permanent protection and management of the on-site 1,218-acre wildlife habitat area included in the Project description (all or portions of APNs 018-190-033, 018-200-056, 018-200-057 , 018-200-058, 021-140-054, 021-190-006, 021-190-017, 021-190-030, 021-190-031, 021-190-032, 023-010-009 023-010-074) as Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. If the Permittee is unable to complete the permanent protection and management of the aforementioned HM Lands, the Permittee shall purchase 1,039.896 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2). 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 10 below for all uncompleted obligations.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
17 16	CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows. <i>The cost estimates are based on 2016 evaluations; therefore beginning January 1, 2017 the start-up costs, interim management funding, and long term management funding shall be adjusted and increased annually for each Development Phase based on the most recent Gross Domestic Product Price Deflator (GDPPD), as published by the United States Bureau of Economic Analysis, until the time of deposit, in accordance with Condition of Approval 9.4.2 and 10.1 below.</i> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated in 2016 dollars at \$10,000.00/acre for 1,038.9896 acres: \$10,389,000.00 \$8,960,000.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements and include real-estate fees; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated in 2016 dollars at \$284,648.21 (\$273.99/acre) \$245,493.00; iii) Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$164,681.00; iv) Long-term management funding as described in Condition of Approval 9.4 below, estimated in 2016 dollars at \$2,828.00/acre for 1,038.9896 acres: \$2,938,009.20 \$2,533,888.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. v) 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 9.5, estimated in 2016 dollars at a minimum of \$12,000.00. 	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18 17	Covered Species Credits. Permittee shall purchase 1,039 896 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities for Development Phases 1 through 5 as depicted in Table 2 of the ITP, or within 18 months of the effective date of CDFW receiving the Performance Security for that phase no later than 18 months from the issuance of the ITP if Security is provided pursuant to Condition of Approval 10 below. OR:	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
19 18	Habitat Acquisition and Protection. Fee Title/Conservation Easement. To provide for the acquisition and protection of the HM lands, the Permittee shall 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. Permittee shall obtain CDFW written approval of any conservation easement before its execution 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 #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
20 19	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 #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21 20	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 #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
22 24	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 #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
23 22	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 http://www.dfg.ca.gov/habcon/conplan/mitbank/); the management plan should recognize anticipated phasing of the acquisition of mitigation lands (Mitigation Phase), and provide interim management objectives and tasks (including monitoring), and long term management objectives and tasks (including monitoring), for each projected Mitigation Phase, in which no Mitigation Phase's management relies on aspects of management of future phases; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing of each Mitigation Phase; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable, of each Mitigation Phase; and (7) installing signage for each Mitigation Phase;	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24 23	Interim Management (Initial and Capital). Provide for the interim management of the HM lands. 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, covered species surveys, data management, annual reporting, 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.	ITP Condition #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
25 24	<p>Endowment Fund. If Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, then Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the 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 9.3.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the 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 the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment. For the ITP, which anticipates that the Endowment will be funded in phases, the interim management period for each Mitigation Phase is three years after deposit of that phase's funds; and funds will be available for long-term management and monitoring for each Mitigation Phase three years after that phase's funds were deposited.</p>	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26 25	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). Once an Endowment Manager has been identified, the endowment amount has been calculated per Condition of Approval 9.4.2, and funds deposited per Condition of Approval 9.4.3 for the first Mitigation Phase, changes in the Endowment Manager for subsequent Mitigation Phases shall be allowed only with a revised endowment fund amount approved in writing by CDFW, calculated per Condition of Approval 9.4.2	ITP Conditions #9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	
27 26	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). A separate PAR shall be prepared for the HM lands which are permanently protected for each Mitigation Phase approved by CDFW per Condition of Approval 9.3.1. Permittee shall submit to CDFW for review and approval the results of each the PAR before transferring funds to the Endowment Manager. The cost estimates in the PAR are based on evaluations at the time the analysis is completed. In order to take into consideration the time lapse and inflationary influences between development of the PAR and the subsequent deposit of the endowment funds for each Mitigation Phase, the endowment costs for each Mitigation Phase shall be adjusted annually based on the most recent GDPPD. All calculations used to derive the newly adjusted endowment amount shall be submitted to CDFW Regional Representative for written approval no less than 30 days prior to deposit into the Endowment Fund.	ITP Conditions #9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28 27	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 #9.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of <i>the effective date of CDFW receiving</i> issuance of the ITP if Security <i>for that phase, if is</i> provided)	Permittee	
29 28	<p>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 Fund:</p> <ul style="list-style-type: none"> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. The endowment shall be established assuming spending will not occur for the first three years after full funding <i>for each Mitigation Phase</i>. 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 Fund Manager and CDFW. <i>The PAR shall identify costs by Mitigation Phase, and not simply pro-rate costs by acre. Certain costs may need to be allocated to the first Mitigation Phase, such as equipment purchasing/leasing; or to specific properties according to features of the property. Each Mitigation Phase's PAR shall be estimated such that stand-alone management, monitoring and reporting may occur.</i> 	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of <i>the effective date of CDFW receiving</i> issuance of the ITP if Security <i>for that phase, if is</i> provided)	Permittee	
30 29	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 (<i>and each phase of the Endowment</i>) 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, <i>and each phase of the Endowment</i> . The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of <i>the effective date of CDFW receiving</i> issuance of the ITP if Security <i>for that phase, if is</i> provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31 30	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 #9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of <i>the effective date of CDFW receiving</i> issuance of the ITP if Security <i>for that phase, if</i> is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
32 34	<p>Performance Security. The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>a) <u>Security Amount</u>. The total Security for the Project as a whole (1,038.9 acres of HM lands) shall be in the amount of \$13,814,607.23 \$41,916,062.00 in 2016 dollars. This amount is based on the cost estimates identified in Condition of Approval 9.1 above. Because the Project is phased, and separate Security may be deposited for each Development Phase, the Security amounts shown in Table 2 above shall increase annually as per the GDPPD until the time of Security posting as approved by CDFW. The Security amounts in Table 2 are based on the cost estimates identified in Condition of Approval 9.1 above. Security for the initial Development Phase shall be deposited with CDFW before Covered Activities begin or within 30 days of the ITP's effective date, whichever occurs first. Security for later Development Phases shall be provided to CDFW before Covered Activities begin in those respective phases.</p> <p>b) <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>c) <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first or Security shall be provided to CDFW before Covered Activities begin for each of five Development Phases as described in Condition of Approval 9 and shown in Table 2 above.</p> <p>d) <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>e) <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>f) <u>Security Drawing</u>. 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 the ITP.</p> <p>g) <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by:</p> <ul style="list-style-type: none"> • Timely submission of all required reports; • An on-site inspection by CDFW; and • Written approval from CDFW. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands for each Development Phase, and record any required conservation easements, and provide endowment funding no later than 18 months from the date on which Security was received by CDFW for each Development Phase of the Project from the effective date of the 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>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of the effective date of CDFW receiving issuance of the ITP if Security for that phase, if is provided)	Permittee	Rev. 2013.1.1

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
33 32	Compliance Monitoring. The Designated Biologist shall be on-site daily at each Work Area until the pre-activity clearance surveys (Condition of Approval 8.7), small mammal burrow excavation (Condition of Approval 8.9), Covered Species exclusion fence installation (Conditions of Approval 8.10 and 8.11), and initial grading activities are complete. The Designated Biologist(s) and/or Biological Monitor(s) 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) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Work Area(s) of each Development Phase 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. The Designated Biologist(s) and/or Biological Monitor(s) shall conduct compliance inspections a minimum of once a week during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.3	Entire Project	Permittee	
34 33	Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW quarterly, in May, August, September and February, no later than the 5th day of the month, along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall also include an accounting of the number of acres that have been permanently disturbed within the Project Area, both for the prior quarter and a total since ITP issuance, as well as an estimate of the expected number of acres to be disturbed in the successive quarter; a summary of all pre-activity surveys conducted; and the number of building pads, utility installations, pipelines, roads, and other ground disturbing Covered Activities within the Project Area which occurred during the previous quarter. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Brandon Sanderson (Brandon.Sanderson@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 # 7.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35 34	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) for each calendar year no later than May 30 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (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 this 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 disturbance, both for the prior calendar year, and a total since ITP issuance; (7) the number of acres of permanent disturbance anticipated to occur in the Project Area during the coming year; (8) a summary of all pre-activity surveys conducted and the annual and cumulative number of building pads, utilities installations, pipelines, roads, and other ground disturbing Covered Activities within the Project Area which occurred during the reporting year; and (9) information about other Project related impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
36 35	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 Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Entire Project	Permittee	
37 36	Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that a Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
38 37	Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
39 38	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 # 6.8	Entire Project	Permittee	
40 39	Dogs. Permittee shall prohibit domestic dogs from the Project Area and site access routes during Covered Activities, except those accompanied by authorized security personnel or local, state, or federal law enforcement officials.	ITP Condition # 6.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41 40	Project Access. Project-related personnel shall access the Project Area using existing routes, dedicated routes for each Work Area , 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 within current boundaries for each Work Area including established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area or the current boundaries for each Work Area , the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
42 41	Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Work Area(s) in each Development Phase Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Work Project Area unless provided for as described in Condition of Approval 6.12 of the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
43 42	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 # 6.14	Entire Project	Permittee	
44 43	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project 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 the ITP.	ITP Condition # 6.15	Entire Project	Permittee	
45 44	Covered Species Observations. During construction, operation, and maintenance of all phases, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.	ITP Condition # 8.1	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46 45	<p>Covering, Ramping, and Inspecting Excavations. Permittee shall minimize the potential for Covered Species to become entrapped in excavations to the maximum extent practicable. To prevent inadvertent entrapment of Covered Species or any other animals during the construction phase of the Project, Permittees shall ensure that all excavated, steep-walled holes or trenches are covered, ramped, and inspected as described below. This measure does not apply to burrows excavated for salvaging Covered Species until such excavation is complete and no Covered Species remain in the burrow.</p> <p>a) Covers. Permittee shall ensure that all trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope are covered or ramped when workers and/or equipment are not actively working in them and at the end of each work day. Covers shall be made of plywood or similar solid material.</p> <p>i. From when all Covered Species breeding ponds within 1 mile of the excavation are dry in the spring or summer through October 14, and provided that the National Weather Service forecasts less than a 70 percent chance of precipitation at the Project Footprint within 72 hours, Permittee may elect to install escape ramps instead of covering excavations that are less than 6 feet deep. Escape ramps shall be of native soil or non-slip planks no less than 10 inches wide.</p> <p>ii. From October 15 until all Covered Species breeding ponds within 1 mile are dry in the following spring or summer, and any additional time when the National Weather Service forecasts a minimum 70 percent chance of precipitation at the Project Footprint within 72 hours, for steep-walled excavations between six inches and six feet deep, Permittee shall cover the excavations or construct earthen ramps at minimum 100-foot intervals, and place coverboards midway between each pair of ramps. If the excavation is an un-covered trench, then Permittee shall construct earthen ramps on both sides of the trench at the minimum 100-foot interval to facilitate Covered Species movement in both directions. Within 0.621 mile (1,000 meters) of a Covered Species breeding site, from October 15 until the breeding site dries in the following spring or summer, and any additional time when the National Weather Service forecasts a minimum 70 percent chance of precipitation within 72 hours, no more than 12,000 linear feet of trench within 0.621 mile of each breeding site, and no more than 20,000 linear feet of trench within 0.621 mile of breeding sites cumulatively, may remain uncovered overnight. If Permittee elects to cover an excavation, then Permittee shall ensure that the edges of the covers are either covered with dirt to prevent Covered Species from crawling under them or treated as discussed in the following paragraph for excavations that are greater than 6 feet deep. If Permittee elects to leave excavations uncovered overnight within 1 mile of a Covered Species breeding site, then a Designated Biologist or Biological Monitor working under a Designated Biologist's direct supervision shall inspect the trench and cover boards each morning, and relocate any Covered Species found, by 1 hour after sunrise. No more than 12,000 feet of trench shall be left uncovered overnight per Designated Biologist or Biological Monitor available for the morning survey.</p>	ITP Condition # 8.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46 45 cont.	<p>iii. If the excavation is greater than 6 feet deep, then at all times of the year, two feet of hardware cloth (or another material approved by CDFW in writing for this purpose for this Project) shall extend beyond the edge of the cover boards. The hardware cloth shall be secured to the edge of the cover boards and to the ground to discourage Covered Species from digging under the edge and becoming injured in a fall. The hardware cloth shall conform to solid ground so that gaps do not exist between the cloth and the ground. Covering gaps with dirt or laying the hardware cloth over loose soil will not satisfy this requirement. The outer edges of the hardware cloth shall be secured to the ground with re-bar, minimum 10-inch soil staples, or similar means every 12 inches to prevent Covered Species from lifting the edges.</p> <p>iv. If a situation is encountered that this measure does not anticipate and alternative methods of preventing entrapment or injury in excavations are warranted, then Permittee shall request and obtain CDFW's written concurrence prior to implementing the alternative.</p>	ITP Condition # 8.2 (cont.)			
47 46	Materials Inspection. Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure on its own or relocated as per the Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.8 above before moving and utilizing the structure.	ITP Condition # 8.3	Entire Project	Permittee	
48 47	Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.8.	ITP Condition # 8.4	Entire Project	Permittee	
49 48	Delineation of Ingress and Egress Routes. All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.	ITP Condition # 8.5	Entire Project	Permittee	
50 49	Road Construction. New and existing roads that are planned for either construction or demolition shall not extend beyond the Work Area. All vehicles passing or turning around shall do so within the Work Area or in previously disturbed areas.	ITP Condition # 8.6	Entire Project	Permittee	
51 50	Covered Species Observations. During construction, operation, and maintenance of all phases, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.8 above.	ITP Condition # 8.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52 54	Record of Handling and Covered Species Reporting. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.6. This information should also be included in the Quarterly and Final Compliance Reports.	ITP Condition # 8.13	Entire Project	Permittee	
53 52	Dry Season Work. Fill or other ground-disturbing activities within or immediately adjacent to the Covered Species' potential breeding habitat (e.g., within 562 meters of known or potential Covered Species breeding habitat) shall be confined to the dry season from June 1 to October 31.	ITP Condition # 8.14	Entire Project	Permittee	
54 53	Precipitation. The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Site. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, grading, excavation, etc.) has yet to finish until a zero percent chance of rain is forecast. Work may continue 24 hours after the rain ceases and there is a zero percent chance of precipitation in the 72-hour forecast. Covered Activities may continue during rainfall events within Work Areas that have been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 8.9 and 8.10 above.	ITP Condition # 8.15	Entire Project	Permittee	
55 54	Work Hours. Permittee shall confine all construction to daylight hours (sunrise to sunset).	ITP Condition # 8.16	Entire Project	Permittee	
56 55	Stockpiles. Permittee shall place soil stockpiles where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 8.17	Entire Project	Permittee	
57 56	Road Construction. New and existing roads that are planned for either construction or demolition shall not extend beyond the Work Area. All vehicles passing or turning around shall do so within the Work Area or in previously disturbed areas.	ITP Condition # 8.18	Entire Project	Permittee	
58 57	Curbs, Berms, and/or Dikes. Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent Covered Species from exiting the roadway. If curbs are necessary for safety and/or surface runoff, the Permittee shall design them to allow Covered Species to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow Covered Species to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow Covered Species passage.	ITP Condition # 8.19	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
59 58	Fieldwork Code of Practice. To ensure that the Designated Biologist(s) do not convey disease between Work Areas, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.20	Entire Project	Permittee	
60 59	<p>Covered Species Injury. Permittee shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittee shall identify a CDFW approved wildlife rehabilitation or veterinary facility or other qualified individual before starting Covered Activities to bring such injured Covered Species for care or treatment. If a Covered Species is injured as a result of Project related activities, the Designated Biologist shall immediately take it to the CDFW approved wildlife rehabilitation or veterinary facility. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center, 2001). Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. Notification shall include the date, time, location and circumstances of the incident and the name of the facility where the animal was taken. If an injured Covered Species is found during Project construction, the individual shall be evaluated by the Designated Biologist(s) who shall then immediately contact the CDFW Regional Representative, via e-mail and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured Covered Species shall be placed in a shaded container and kept moist, then the following steps shall be taken:</p> <ol style="list-style-type: none"> 1) If the injury is minor or healing and the Covered Species is likely to survive, the Covered Species shall be released immediately in accordance with the CDFW approved Covered Species Mortality Reduction and Relocation Plan as identified in Condition of Approval 7.8. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. 2) If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility followed by notification as described in Condition of Approval 7.9. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.9. 	ITP Condition # 8.21	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
61 60	Notification of Take or Injury. Permittee, their employees, agents, contractors or sub-contractors shall immediately notify the Designated Biologist(s) 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(s) shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification shall include information regarding the location, species, and number of animals taken or injured and the ITP tracking number. Following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the CTS, photographs of the location and the CTS, explanation as to the cause of take or injury, and any other pertinent information. After initial notification, CDFW will direct Permittee as to the final disposition of the carcass.	ITP Condition # 7.9	Entire Project	Permittee	
62 64	Notification of Relocated CTS. The Designated Biologist or Designated Representative shall notify CDFW if any CTS are relocated pursuant to the Covered Species Mortality Reduction and Relocation Plan and/or per Condition of Approval 8.13 below. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243 4005. 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 two 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. For relocated animals, the report shall include photos and information regarding the size, weight, life history stage, location of release and any other details required by the Covered Species Mortality Reduction and Relocation Plan.	ITP Condition # 7.10	Entire Project	Permittee	
63 62	Designated Biologist/Biological Monitor Authority. To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist(s) and/or Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
POST-CONSTRUCTION					
64 63	Refuse Removal. Upon completion of Covered Activities <i>in each Development Phase</i> , Permittee shall remove from the Project Area and properly dispose of all and 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 # 6.16	Post-construction	Permittee	
65 64	Final Mitigation Report. No later than 45 days after completion of all mitigation measures, 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 Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this 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; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the 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.	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
66	<i>As-Built Development Plans. Permittee shall submit as-built development plans to CDFW within sixty (60) days of completing construction on each Development Phase. The as built plan sheets shall delineate and quantify the extent of permanent Project features, including roads, trails, lots, public and commercial buildings, dwellings, infrastructure, and all other facilities and features associated with that Development Phase. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from survey data acquired after construction of that phase and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.</i>	<i>ITP Condition # 7.11</i>	<i>Post-construction of each Development Phase</i>		