



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

California Endangered Species Act
Amended Incidental Take Permit No. 2081-2015-014-04
Amendment No. 1

**GAVILAN COLLEGE SAN BENITO CAMPUS AND
FAIRVIEW CORNERS RESIDENTIAL DEVELOPMENT**

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: Gavilan Joint Community College District
Principal Officer: Pedro Avila, Superintendent/President
Mailing Address: 5055 Santa Teresa Boulevard
Gilroy, California 95020

Permittee: Fairview Corners, LLC
Principal Officer: Richard B. Oliver, President
Contact Person: Mary Beth Long, 408-779-5900
Mailing Address: c/o FC Investors LLC, Co-Manager
385 Woodview Avenue, Suite 100
Morgan Hill, California 95037

Permittee: FOR California Development, LLC
Principal Officer: David Corry, Division President
Contact Person: David Corry, 805-634-6215
Mailing Address: 956 Walnut Street, Suite 200A
San Luis Obispo, California 93401

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.

Amended ITP³ Background:

On January 13, 2017, CDFW issued the original ITP No. 2081-2015-014-04 to Gavilan Joint Community College District and Fairview Corners, LLC, authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Gavilan College San Benito Campus and Fairview Corners Residential Development (Project) in San Benito County, California. The Project as described in the original ITP includes the development of 137 acres, of which approximately 7.5 acres is unimproved rangeland and the remainder is cultivated hayfields, into a college campus and residential subdivision. The Gavilan College San Benito Campus will be constructed on the southern portion of the Project site on an approximately 77-acre site located adjacent to the northeast corner of Fairview Road and Airline Highway. The Fairview Corners Residential Development will be constructed on the northern portion of the Project site on an approximately 60-acre site located directly east of Fairview Road.

In 2024, the entity, FOR California Development, LLC, acquired approximately 20 acres of the approximately 60-acre Fairview Corners Residential Development site. In addition, FOR California Development, LLC, was granted a temporary construction easement across approximately 8 acres of the remaining 40-acre portion of the Fairview Corners Residential Development site retained by Fairview Corners, LLC.

On February 7, 2025, CDFW received a written request from Fairview Corners, LLC, and FOR California Development, LLC, acknowledged and consented by Gavilan Joint Community College District, for an amendment to the ITP to add FOR California Development, LLC, as a Permittee on the ITP. On February 3, 2025, CDFW received the corresponding fee payment. CDFW finds that this Amendment (Amendment No. 1) is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of Amendment No. 1 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 1 increase other Project impacts on the Covered Species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of Amendment No. 1 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).

CDFW now reissues this ITP including the revised provisions in Amendment No. 1 (collectively, the Amended ITP). The Amended ITP includes all of the operative provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended ITP shows the specific red-line changes made to the ITP as a result of Amendment No. 1.

Effective Date and Expiration Date of this ITP:

³When this incidental take permit and attachments refer to the “ITP”, it means the “Amended ITP” unless the context dictates otherwise.

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

**GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT**

The original ITP was executed in duplicate original form and became effective when a duplicate original was acknowledged by signature of the Permittees on the last page of the original ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. The original ITP's effective date was February 10, 2017. This remains the effective date for the original take authorization. This Amended ITP shall become effective when issued by CDFW. Unless renewed by CDFW, this Amended ITP and its authorization to take the Covered Species shall expire on **January 1, 2036**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittees' obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittees' Final Mitigation Report required by Condition of Approval 6.6 of this ITP.

Project Location:

The Gavilan College and Fairview Corners Residential Project (Project) is located at the northeast corner of Airline Highway (SR 25) and Fairview Road just outside of the Hollister city limit in San Benito County (Figure 1). The Project will be constructed on two parcels of land (APN for Fairview Corners, LLC: 025-191-068, APNs for Gavilan College: 025-191-069, -70) (Figure 2).

Project Description:

The Project includes the development of 137 acres, of which approximately 7.5 acres is unimproved rangeland and the remainder is cultivated hayfields, into a college campus and residential subdivision project. The Gavilan College San Benito Campus is proposed on the southern portion of the permit area on an approximately 77-acre site located adjacent to the northeast corner of Fairview Road and Airline Highway. This portion of the Project includes the development of classrooms, laboratories, offices, student union, administration building, theatre, library, gymnasium, on-campus housing, athletic fields, a swimming pool and open space areas. The college campus is proposed to be constructed in two phases. Phase I will be located along the extension of Cielo Vista Drive and will include an approximately 50,000 square foot Education Center, that includes classrooms, administrative offices and parking. Construction of the Education Center and necessary utilities is anticipated to occur over a two-year period. Phase II will be initiated once the Gavilan College District receives state funding for construction of full campus build-out. The full campus build-out is anticipated to occur by 2035, dependent upon the availability of state funding. Gavilan College District assumes the core campus buildings would construct increments of 50,000 gross square feet each five years. The housing uses, if implemented, could proceed on a separate timeline, based on demand and economic feasibility. If the Gavilan College District moves forward with this component of the project, it is assumed that these uses would be constructed five to ten years after the start of Phase II construction. The athletic and recreational facilities could also proceed on an independent timeline, based on the availability of funding.

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

The Fairview Corners Residential Site is proposed on the northern portion of the Project site on an approximately 60-acre site located directly east of Fairview Road. The Fairview Corners Residential Site includes the development of multi density residential units from single-family ranchettes and small lot cluster homes to duplexes and apartments. The proposed residential site includes parkland and open space to serve the site’s residents. The build-out for the residential site is also anticipated to occur in two phases, over a period of five to 16 years. The two major phases would accommodate grading and infrastructure construction and may be divided into additional “sub” phases, each of which may last approximately two years, with up to four sub-phases within each major phase.

The Project also involves construction of necessary infrastructure for both the college campus and residential subdivision including streets, water supply and distribution and other associated utilities and access to serve all phases of the development.

Improvements will occur at the intersection of Fairview Road and Cielo Vista Drive to provide access to the Project site. These improvements include the extension of Cielo Vista Drive to the east, construction of a northbound-shared through/right-turn lane, a southbound left-turn lane, re-striping of the eastbound right-turn lane to provide a shared through/right-turn lane, a signal at the Fairview Road/Cielo Vista Drive intersection, and sewer connections.

During construction, Project activities will include grubbing, excavation, and mass grading within the development envelope; 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; construction of the water supply distribution system and wastewater collection system; tree and other vegetation removal and trimming; fencing installation; landscaping and re-vegetation of green space strips.

Equipment needed to perform the above Covered 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 ⁴

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

⁴See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above are expected to result in incidental take of individuals of the Covered Species include grubbing, excavation, and mass grading within the Project site; 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, water supply and sewer collection facilities and accessory buildings; fencing installation; landscaping and revegetation of green space strips; and capture and relocation of Covered Species as required in this ITP (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 Covered Species is known to have occurred on the Gavilan College/Fairview Corners Project site in the past and in other areas in the Project vicinity. A stock pond that supported California tiger salamander (CTS) breeding habitat formerly existed in the northeastern corner of the Project site prior to 2006. In areas surrounding the Project site, the California Natural Diversity Database (CNDDDB) includes 11 records of CTS observations from 11 locations within 3.1 miles. The Project site is also within a Critical Habitat Unit for CTS as identified by the United States Fish and Wildlife Service (USFWS) (Figure 3). There are several aquatic features adjacent to the Project site that have the potential to provide breeding habitat for CTS (Figure 4) and the cultivated hayfield contains suitable aestivation habitat in the form of small mammal burrows. Therefore, the uplands located within the Project site are likely to be used by the Covered Species for dispersal and refugia habitat.

The Project is expected to cause the permanent loss of 137 acres of habitat for CTS through grading and excavation of the entire 137-acre Project site. Approximately 33 acres of habitat impacts will occur within 380 meters from any potential CTS breeding location, approximately 86 acres of habitat impacts will occur between 381 meters and 630 meters from any potential CTS breeding location, and approximately 18 acres of habitat impacts will occur between

Incidental Take Permit
 No. 2081-2015-014-04
 (Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
 GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

631 meters and 1,000 meters from any potential CTS breeding location. Therefore, habitat impacts will occur in areas where CTS are expected to occur.

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 site and the improvements at the intersection of Fairview Road and Cielo Vista Drive (collectively, the 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 Permittees, their employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

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

1. **Legal Compliance:** Permittees 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:** Permittees shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2008061016) certified by the Gavilan Joint Community College District on December 9, 2008, and in the Biological Resources section of the

Incidental Take Permit
 No. 2081-2015-014-04
 (Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
 GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

Environmental Impact Report (SCH No.: 2010081009) certified by San Benito County on November 6, 2012 as lead agencies for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

- 3. ESA Compliance:** Permittees shall implement and adhere to the terms and conditions related to the Covered Species in the Habitat Conservation Plan for the Gavilan College San Benito Campus and Fairview Corners Residential Development, San Benito County, California (08EVEN00-2015-F-0378) 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.
- 4. ITP Time Frame Compliance and Joint and Several Liability:** Permittees 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. All terms and conditions of this ITP, including those set forth in the attached MMRP, shall be binding upon each of the three (3) Permittees. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee is jointly and severally liable for providing and maintaining security in accordance with this ITP and for performance of all other terms, conditions, and obligations of this ITP, including, but not limited to, those set forth in the attached MMRP. Any failure by one or more Permittees to comply with any term, condition, or obligation set forth in this ITP shall be deemed a failure to comply by all three Permittees.
- 5. General Provisions:**

 - 5.1. Designated Representative. Before starting Covered Activities, Permittees shall designate a representative responsible for communications with CDFW and overseeing compliance with this ITP (Designated Representative). Permittees shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Designated Biologist. Permittees 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. Permittees 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

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

Species and to minimize disturbance of Covered Species' habitat. Permittees 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. Designated Monitors and their activities shall be approved in advance and in writing by CDFW.

- 5.3. 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.
- 5.4. Education Program. Permittees 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. Permittees 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. Permittees 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.
- 5.5. 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. Permittees shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement. Permittees shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittees 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.

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

- 5.7. Dust Control. Permittees shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittees shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 5.8. Erosion Control Materials. Permittees 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.
- 5.9. Dogs. Permittees 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.
- 5.10. Delineation of Work Area Boundaries. Permittees shall clearly delineate the boundaries of the Work Area where the Covered Activities will occur for that Project phase, with fencing, stakes, or flags before starting Covered Activities along any part of the route in active construction. Permittees shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittees shall maintain all fencing, stakes, and flags until the completion of Covered Activities in each Work Area. The Work Area(s) are defined as the discrete zone(s) within the Project Area where Covered Activities will actively occur.
- 5.11. Delineation of Habitat. Permittees 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.
- 5.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittees shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittees shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittees determine construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.13. Staging Areas. Permittees shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas.

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

Additionally, Permittees shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.12 of this ITP.

- 5.14. Hazardous Waste. Permittees 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. Permittees 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.
- 5.15. CDFW Access. Permittees shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittees control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.16. Refuse Removal. Upon completion of Covered Activities, Permittees shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittees are 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.
- 6.3. Compliance Monitoring. The Designated Biologist(s) shall be on-site daily when initial ground- and vegetation-disturbing activities occur. 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 Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

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 initial clearing, grubbing, and grading are completed.

- 6.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW quarterly, in April, July, October and January, no later than the 5th day of the month it is due, 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 CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Central Region CESA Program and Headquarters CESA Program. At the time of this ITP's approval, CDFW's Central Region CESA Program e-mail is R4CESA@wildlife.ca.gov and Headquarters CESA Program e-mail 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 Permittees in writing of the new reporting schedule.
- 6.5. Annual Status Report. Permittees shall provide CDFW with an Annual Status Report (ASR) for each calendar year no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.4; (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

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

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.

- 6.6. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittees 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.
- 6.7. 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; 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 advance and in writing by CDFW, including under what circumstances handling will be allowed to occur.
- 6.8. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's CNDDDB within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.

- 6.9. Notification of Take or Injury. Permittees, its 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 contacting the Regional Office at R4CESA@wildlife.ca.gov and emailing the Regional Representative. 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, Permittees 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 Permittees as to the final disposition of the carcass.
- 6.10. 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 6.7. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by contacting the Regional Office at R4CESA@wildlife.ca.gov and emailing the Regional Representative. 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, Permittees 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. 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. Permittees shall implement and adhere to the following conditions to minimize take of Covered Species:

- 7.1. 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 for Covered Species. These surveys

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone for the Covered Species. 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 6.7 above. Permittees 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 Area.

- 7.2. 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 Permittees to these designated ingress and egress routes.
- 7.3. Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows identified during the Pre-Activity Surveys (Condition of Approval 7.1) 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 to alert biological and work crews to their presence. 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. If the small mammal burrow cannot be fully avoided, the burrow shall be excavated in accordance with Condition of Approval 7.4 below.
- 7.4. 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 7.3 that cannot be fully avoided by at least 50 feet shall be fully excavated as described in Condition of Approval 6.7. This excavation requirement applies regardless if the burrow is located within the Work Area or the Work Area's 50-foot buffer zone. 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 6.7 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 7.1 above.
- 7.5. Covered Species Exclusion Fencing. Prior to any surface disturbance, Permittees 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

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

excavated by the Designated Biologist in accordance with Condition of Approval 7.4 above to prevent entrapment of Covered Species within the Work Area. 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 every 50 feet along or near both sides of the exclusion fence. The Permittees 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 excavated as described in Condition of Approval 7.4 above prior to commencing fence installation. Permittees 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 6.7 above.

- 7.6. 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. Permittees 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.
- 7.7. 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 6.7 above.
- 7.8. Record of Handling and Covered Species Reporting. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

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. Permittees shall also submit this information to the CNDDDB as per Condition of Approval 6.8. This information should also be included in the Quarterly and Final Compliance Reports.

- 7.9. 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 15 to October 31.
- 7.10. Precipitation. The Designated Biologist(s) and Permittees 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, Permittees 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 7.5 above.
- 7.11. Work Hours. Permittees shall confine all construction to daylight hours (sunrise to sunset).
- 7.12. 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.
- 7.13. 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.
- 7.14. Curbs, Berms, and/or Dikes. Permittees 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 Permittees shall

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

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.

- 7.15. Stockpiles. Permittees 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. Permittees shall appropriately protect stockpiles to prevent soil erosion.
- 7.16. Open Excavations. The Designated Biologist(s) and/or Biological Monitor(s) shall inspect all open holes, sumps, and trenches within each Work Area at the beginning and end of each day for trapped animals. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are up to eight feet deep shall be covered when workers or equipment are not actively working in the excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than eight feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each work day. To prevent inadvertent entrapment of the Covered Species, the Designated Biologist(s) and/or Biological Monitor(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning, end of each day (including weekends and any other non-work days), and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or Biological Monitor(s) shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. If any worker discovers that Covered Species have become trapped, Permittees shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s)

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

shall capture and relocate the Covered Species as per the Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 6.7 above.

- 7.17. Covered Species Injury. Permittees shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittees 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. Notification shall include the date, time, location and circumstances of the incident and the name of the facility where the animal was taken. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center, 2001). 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, 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 Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 6.7. Permittees 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 6.9.
 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 6.9. Permittees 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 6.9.

8. 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

Incidental Take Permit
 No. 2081-2015-014-04
 (Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
 GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

acreage required to provide for adequate compensation. Factors considered for the Project to determine adequate compensation include distance from potential breeding locations, the amount of disturbance at the Project site, and the potential dispersal barriers between the Project's habitat features and potential breeding sites. Approximately 33 acres of habitat impacts will occur within 380 meters from any potential Covered Species breeding location, approximately 86 acres of habitat impacts will occur between 381 meters and 630 meters from any potential Covered Species breeding location, and approximately 18 acres of habitat impacts will occur between 631 meters and 1,000 meters from any potential Covered Species breeding location. Covered Species use upland habitat features less frequently the further from potential breeding locations and in lower densities the habitat features occur from breeding locations. The majority of the Project site is regularly disturbed as part of the cultivated hayfield's operation. In addition, the Project site is surrounded by rural development, agricultural activities, a golf course, and relatively small, isolated patches of apparently undisturbed upland habitat features. Covered Species have limited opportunities to reach the Project site from potential breeding locations. Therefore, only a small number of Covered Species individuals may be able to use the Project site's habitat features.

To meet this requirement, the Permittees shall either purchase 329 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 329 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. 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 9 below for all uncompleted obligations.

8.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:

8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$10,000.00/acre for 329 acres including brokerage and escrow fees: **\$3,530,170.00**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

8.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at **\$167,868.00**;

8.1.3. Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at **\$50,880.00**;

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

8.1.4. Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$2,913.00/acre for 329 acres: **\$958,461.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

8.1.5. 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 8.3, estimated at **\$12,000.00**.

8.2. Covered Species Credits. Permittees shall purchase 329 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below.

OR:

8.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittees shall:

8.3.1. 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. Permittees 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);

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

- 8.3.2. 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 2A) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 8.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2B). 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;
- 8.3.4. 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. Permittees 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.
- 8.3.5. 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/>); (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; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 8.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. Permittees 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 grazing, fence repair, continuing trash

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

removal, site monitoring and biological surveys, vegetation and invasive species management, and pond maintenance. Permittees shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittees, 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.

- 8.4. Endowment Fund. Permittees 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, Permittees 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 8.3.5. 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, Permittees 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.

- 8.4.1. 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. Permittees 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,

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

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 Permittees’s written proposal, CDFW shall inform Permittees 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 Permittees with a written explanation of the reasons for its determination. If CDFW does not provide Permittees with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).

8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittees 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). Permittees shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

8.4.2.1. Capitalization Rate and Fees. Permittees 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.

8.4.2.2. Endowment Buffers/Assumptions. Permittees 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:

8.4.2.2.1. 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.

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

8.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement,

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

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

8.5. Reimburse CDFW. Permittees 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.

9. Performance Security

Permittees may proceed with Covered Activities only after the Permittees have ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittees shall provide Security as follows:

- 9.1. Security Amount. The Security shall be in the amount of **\$4,719,379.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.
- 9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. 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.
- 9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

- 9.5. Security Transmittal. If CDFW holds the Security, Permittees shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittees have failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittees 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 Permittees must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittees 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 Permittees do 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 Permittees 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 Permittees a written stop-work order requiring Permittees 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,

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittees shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittees, CDFW may extend any stop-work order issued to Permittees 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 Permittees to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittees are responsible for complying with all other applicable federal, state, and local law.

Notices:

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 Permittees. Notices, reports, and other communications shall reference the Project name, Permittees, and ITP Number (2081-2015-014-04) 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
R4CESA@wildlife.ca.gov

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1266
Sacramento, California 95814
CESA@wildlife.ca.gov

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

Unless Permittees 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) 578-0409
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 Projects by the lead agencies, Gavilan Joint Community College District and San Benito County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agencies' prior environmental review of the Projects are set forth in the Gavilan San Benito Campus and Fairview Corners Environmental Impact Report, (SCH. 2008061016) dated November 2008 that the Gavilan Joint Community College District certified for the Gavilan San Benito Campus and Fairview Corners Projects on December 9, 2008 and in the Fairview Corners Residential Specific Plan Environmental Impact Report, (SCH. 2010081009) dated March 2012 that the San Benito County certified for Fairview Corners Residential Specific Plan on November 6, 2012. At the time the lead agencies certified the EIRs and approved the Projects they 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 agencies' 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. 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 No. 1.

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

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, Gavilan San Benito Campus and Fairview Corners Environmental Impact Report, Fairview Corners Residential Specific Plan Environmental Impact Report; Habitat Conservation Plan for the Gavilan College San Benito Campus and Fairview Corners Residential Development, San Benito County, California; 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 329 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of 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 Permittees' 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;

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT

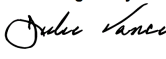
- (7) Permittees have ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on 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 Permittees as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Regional Vicinity
FIGURE 2	Permit Area
FIGURE 3	Recorded Observations of CTS within 3.1 Miles of Project
FIGURE 4	CTS Habitat within 1.24 Miles of the Project Site
ATTACHMENT 1	Mitigation Monitoring and Reporting Program (Amendment No. 1)
ATTACHMENT 2A, 2B	Proposed Lands for Acquisition Form; Habitat Management Lands Checklist
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Minor Amendment No. 1 with Track Changes

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

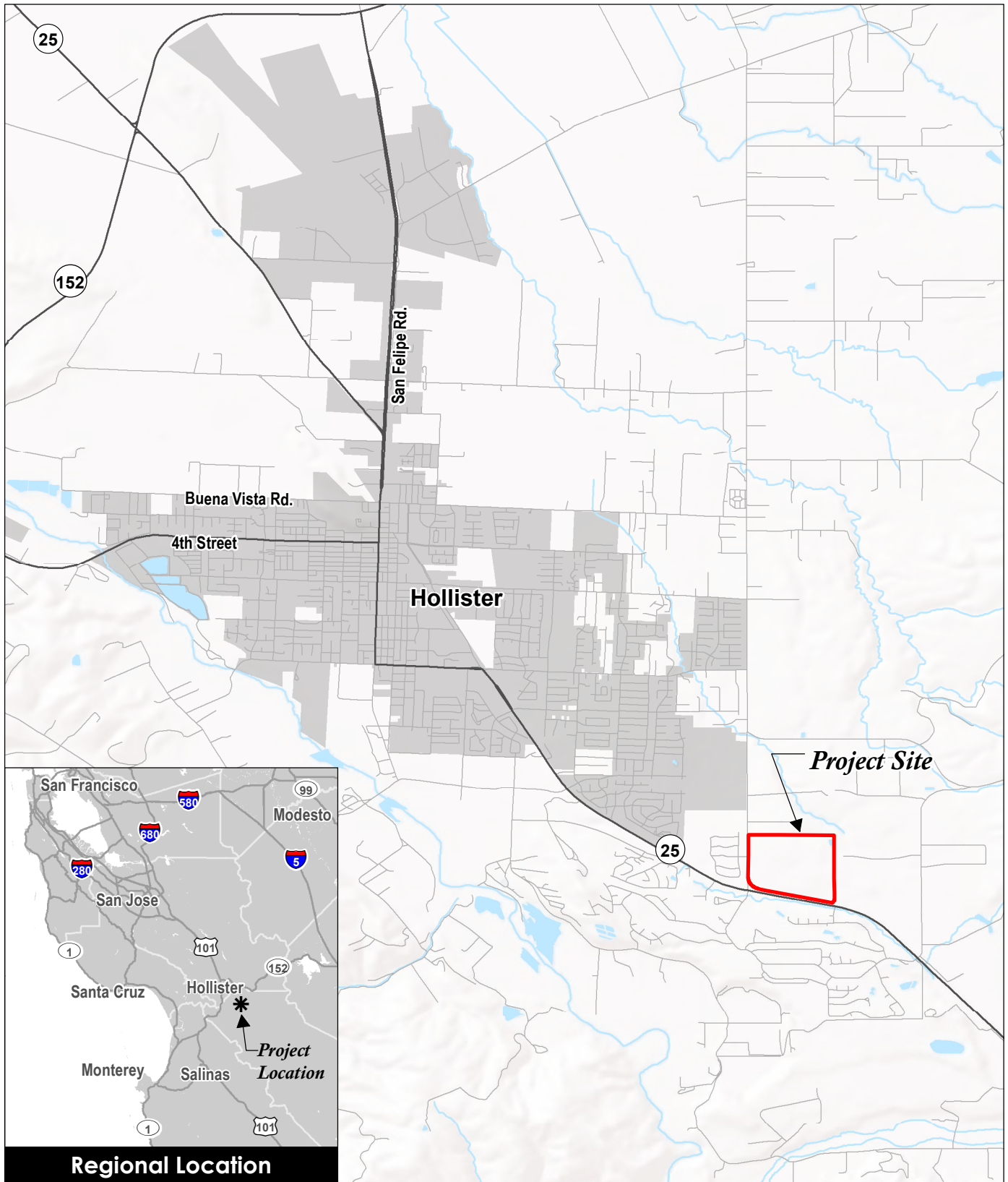
on 3/14/2025

DocuSigned by:

 FA83F09FE08945A...

Julie A. Vance, Regional Manager
Region 4 Central Region

Incidental Take Permit
No. 2081-2015-014-04
(Amendment No. 1)

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT, FAIRVIEW CORNERS, LLC, AND FOR CALIFORNIA DEVELOPMENT, LLC
GAVILAN COLLEGE SAN BENITO CAMPUS AND FAIRVIEW CORNERS RESIDENTIAL PROJECT



Source: ESRI 2009

Figure 1
Regional Vicinity



0 1.5 miles

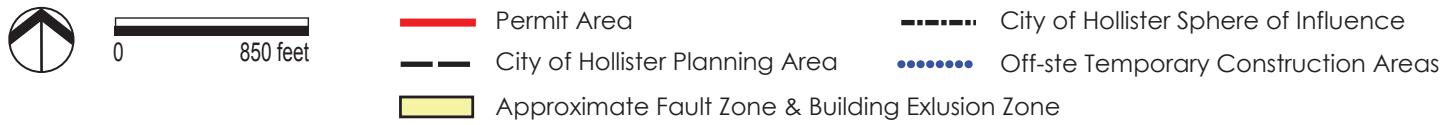
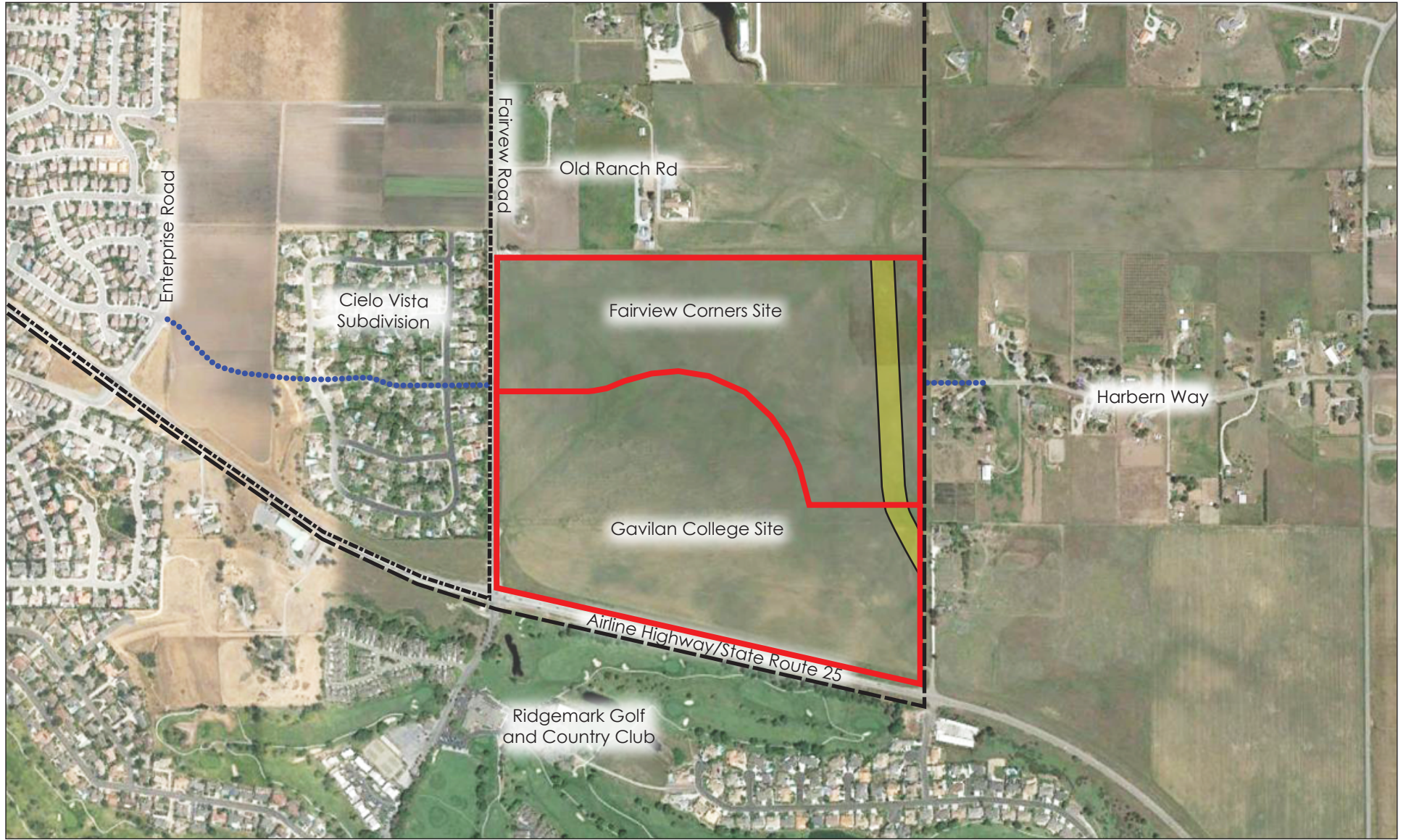


Project Boundary



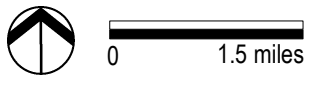
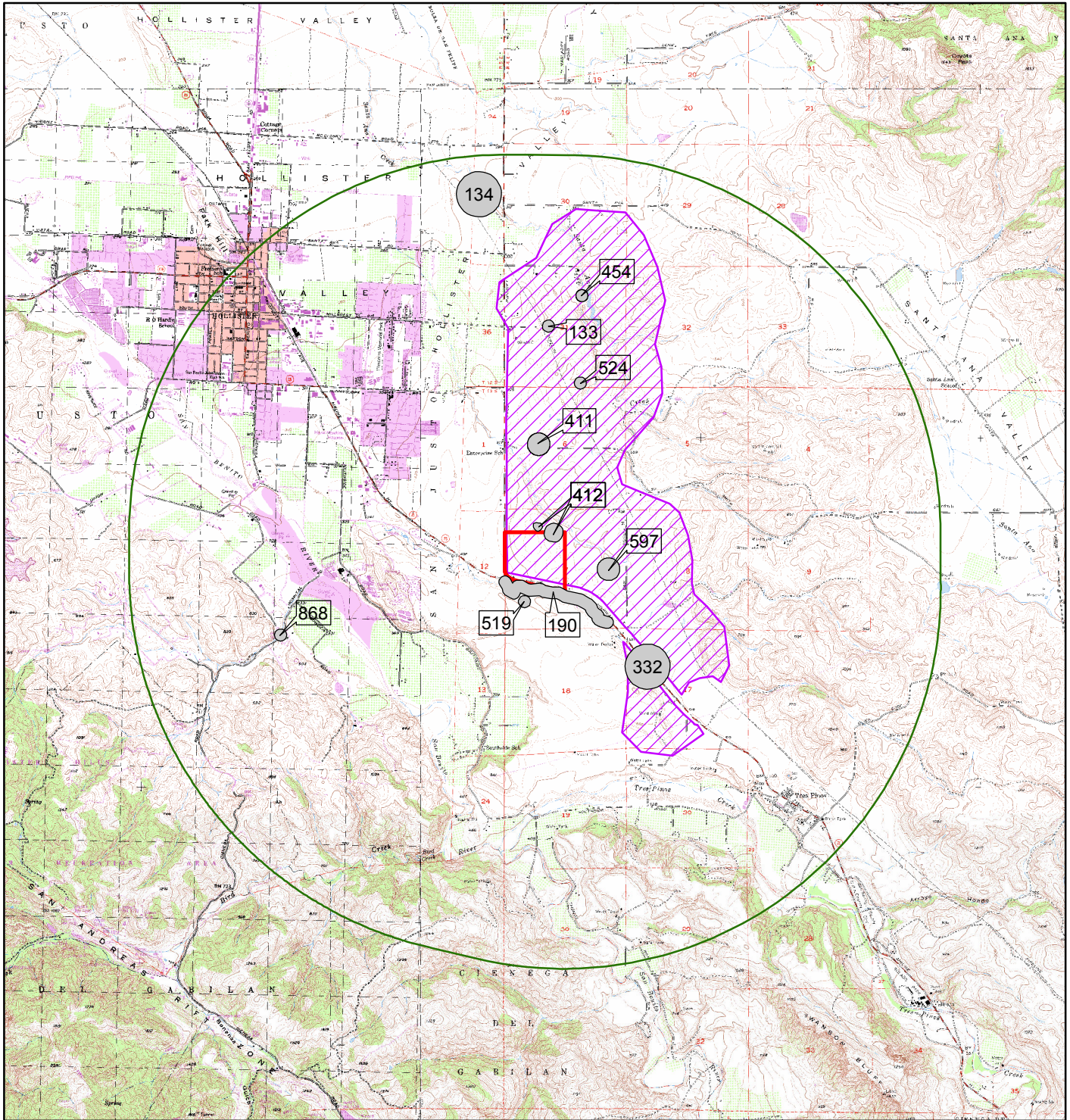
Hollister City Limit





Source: Google Earth 2012

Figure 2
Permit Area

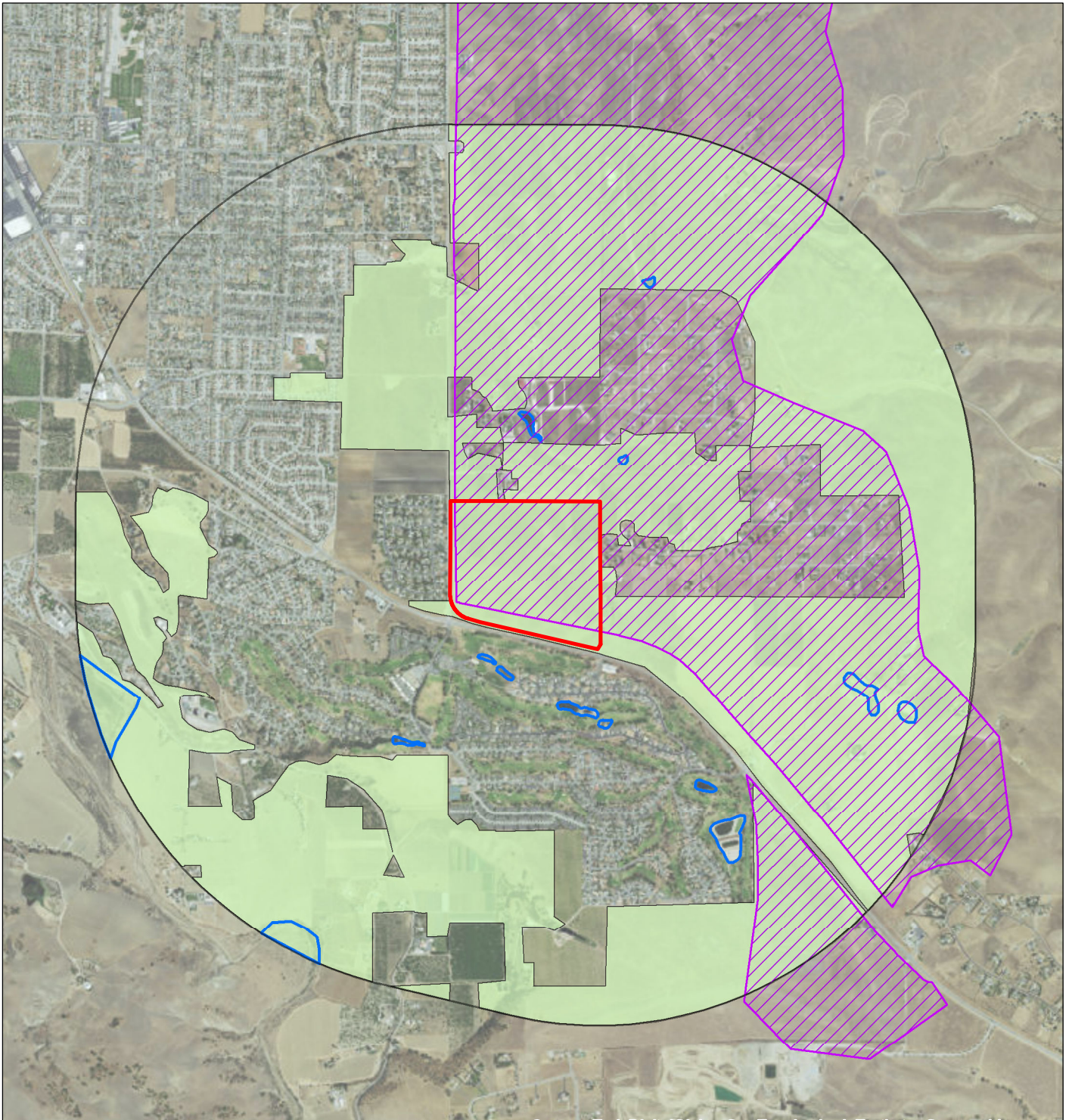







Source: San Benito County 2008, USFWS 2009, CDFG CNDDDB 2014, USGS 24k DRG

Figure 3



Recorded Observations of CTS Within 3.1 Miles of the Project Site



-  Project Site
-  1.24 Mile Project Site Buffer
-  Aquatic Features
-  CTS Critical Habitat
-  Upland Habitat



Source: San Benito County 2008, USFWS 2009, CDFG CNDDDB 2014

Figure 4

CTS Habitat Within 1.24 Miles of the Project Site



Attachment 1

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

**INCIDENTAL TAKE PERMIT NO. 2081-2015-014-04
(Amendment No. 1)**

**PERMITTEES: Gavilan Joint Community College District and
Fairview Corners, LLC
FOR California Development, LLC**

**PROJECT: Gavilan College San Benito Campus and Fairview
Corners Residential Development**

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 Permittees of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEES

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittees have 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 Permittees 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	Before starting Covered Activities, Permittees shall designate a representative responsible for communications with CDFW and overseeing compliance with the ITP (Designated Representative). Permittees 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 # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittees	
2	Permittees 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. Permittees 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. Permittees 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. Designated Monitors and their activities shall be approved in advance and in writing by CDFW.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittees	
3	Permittees 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. Permittees 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. Permittees 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 # 5.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittees	
4	Permittees shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittees 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 # 5.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittees	
5	Permittees shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittees shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Permittees shall clearly delineate the boundaries of the Work Area where the Covered Activities will occur for that Project phase, with fencing, stakes, or flags before starting Covered Activities along any part of the route in active construction. Permittees shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittees shall maintain all fencing, stakes, and flags until the completion of Covered Activities in each Work Area. The Work Area(s) are defined as the discrete zone(s) within the Project Area where Covered Activities will actively occur.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittees	
7	Permittees 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.	ITP Condition # 5.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittees	
8	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittees	
9	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; 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 advance and in writing by CDFW, including under what circumstances handling will be allowed to occur.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities	Permittees	
10	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 for Covered Species. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone for the Covered Species. 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 6.7 above. Permittees 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 Area.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittees	
11	All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittees to these designated ingress and egress routes.	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	The Designated Biologist shall flag all potential small mammal burrows identified during the Pre-Activity Surveys (Condition of Approval 7.1) 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 to alert biological and work crews to their presence. 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. If the small mammal burrow cannot be fully avoided, the burrow shall be excavated in accordance with Condition of Approval 7.4 below.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities	Permittees	
13	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 7.3 that cannot be fully avoided by at least 50 feet shall be fully excavated as described in Condition of Approval 6.7. This excavation requirement applies regardless if the burrow is located within the Work Area or the Work Area's 50 foot buffer zone. 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 6.7 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 7.1 above.	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittees	
14	Prior to any surface disturbance, Permittees 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 excavated by the Designated Biologist in accordance with Condition of Approval 7.4 above to prevent entrapment of Covered Species within the Work Area. 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 every 50 feet along or near both sides of the exclusion fence. The Permittees 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 excavated as described in Condition of Approval 7.4 above prior to commencing fence installation. Permittees 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 6.7 above.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<p>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. Permittees 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.</p>	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities	Permittees	
16	<p>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. Factors considered for the Project to determine adequate compensation include distance from potential breeding locations, the amount of disturbance at the Project site, and the potential dispersal barriers between the Project's habitat features and potential breeding sites. Approximately 33 acres of habitat impacts will occur within 380 meters from any potential Covered Species breeding location, approximately 86 acres of habitat impacts will occur between 381 meters and 630 meters from any potential Covered Species breeding location, and approximately 18 acres of habitat impacts will occur between 631 meters and 1,000 meters from any potential Covered Species breeding location. Covered Species use upland habitat features less frequently the further from potential breeding locations and in lower densities the habitat features occur from breeding locations. The majority of the Project site is regularly disturbed as part of the cultivated hayfield's operation. In addition, the Project site is surrounded by rural development, agricultural activities, a golf course, and relatively small, isolate patches of apparently undisturbed upland habitat features. Covered Species have limited opportunities to reach the Project site from potential breeding locations. Therefore, only a small number of Covered Species individuals may be able to use the Project site's habitat features.</p> <p>To meet this requirement, the Permittees shall either purchase 329 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 329 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. 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 the ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	

	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:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$10,000.00/acre for 329 acres including brokerage and escrow fees: \$3,530,170.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at \$167,868.00; iii) Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at \$50,880.00; iv) Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$2,913.00/acre for 329 acres: \$958,461.00. 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 8.3, estimated at \$12,000.00. 	ITP Condition #8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
18	<p>Permittees shall purchase 329 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of the ITP if Security is provided pursuant to Condition of Approval 9 below.</p> <p>OR:</p>	ITP Condition #8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
19	<p>To provide for the acquisition and perpetual protection and management of the HM lands, the Permittees 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. Permittees 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);</p>	ITP Condition #8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	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 2A) 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 #8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
21	Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2B). 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 #8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
22	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. Permittees 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 #8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
23	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/); (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; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition #8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
24	Provide for the interim management of the HM lands. Permittees 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 grazing, fence repair, continuing trash removal, site monitoring and biological surveys, vegetation and invasive species management, and pond maintenance. Permittees shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittees, 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 #8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<p>Permittees 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, Permittees 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 8.3.5. 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, Permittees 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.</p>	ITP Condition #8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
26	<p>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. Permittees 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 Permittees's written proposal, CDFW shall inform Permittees 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 Permittees with a written explanation of the reasons for its determination. If CDFW does not provide Permittees with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;</p>	ITP Condition #8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
27	<p>After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittees 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). Permittees shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p>	ITP Condition #8.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	Permittees 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 Condition #8.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
29	<p>Permittees 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:</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. • For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #8.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
30	Permittees shall transfer the long term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions #8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	
31	Permittees 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 #8.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
32	<p>Permittees may proceed with Covered Activities only after the Permittees have ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittees shall provide Security as follows:</p> <ol style="list-style-type: none"> a) <u>Security Amount</u>. The Security shall be in the amount of \$4,719,379.00. This amount is based on the cost estimates identified in Condition of Approval 8.1 above; b) <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel; 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; d) <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW; e) <u>Security Transmittal</u>. If CDFW holds the Security, Permittees shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.; 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 Permittees have failed to comply with the Conditions of Approval of the ITP; g) <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittees after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittees must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of the ITP. CDFW may require the Permittees 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 Permittees do not complete these requirements within the specified timeframe.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
33	The Designated Biologist(s) shall be on-site daily when initial ground- and vegetation disturbing activities occur. 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 the 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 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 the 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 initial clearing, grubbing, and grading are completed.	ITP Condition # 6.3	Entire Project	Permittees	
34	Quarterly Compliance Report The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW quarterly, in April, July, October and January, no later than the 5th day of the month it is due, 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 CDFW's Regional Office at the office listed in the Notices section of the ITP and via e-mail to CDFW's Central Region CESA Program and Headquarters CESA Program. At the time of the ITP's approval, CDFW's Central Region CESA Program e-mail is R4CESA@wildlife.ca.gov and Headquarters CESA Program e-mail 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 Permittees in writing of the new reporting schedule.	ITP Condition # 6.4	Entire Project	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	Annual Status Report: Permittees shall provide CDFW with an Annual Status Report (ASR) for each calendar year no later than January 31 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 6.4; (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 # 6.5	Entire Project	Permittees	
36	The Designated Biologist shall submit all observations of Covered Species to CDFW's 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 # 6.7	Entire Project	Permittees	
37	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittees are 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 # 6.2	Entire Project	Permittees	
38	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. Permittees shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 5.5	Entire Project	Permittees	
39	Permittees 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 # 5.8	Entire Project	Permittees	
40	Permittees 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 # 5.9	Entire Project	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittees shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittees shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittees determine construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.12	Entire Project	Permittees	
42	Permittees shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittees shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.12 of the ITP.	ITP Condition # 5.13	Entire Project	Permittees	
43	Permittees 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. Permittees 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 # 5.14	Entire Project	Permittees	
44	Permittees shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittees 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 # 5.15	Entire Project	Permittees	
45	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 6.7. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by contacting the Regional Office at R4CESA@wildlife.ca.gov and emailing the Regional Representative. 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, Permittees 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 # 6.10	Entire Project	Permittees	
46	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 6.7 above.	ITP Condition # 7.7	Entire Project	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	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. Permittees shall also submit this information to the CNDDDB as per Condition of Approval 6.8. This information should also be included in the Quarterly and Final Compliance Reports.	ITP Condition # 7.8	Entire Project	Permittees	
48	Fill or other ground-disturbing activities within the Covered Species' potential breeding habitat shall be confined to the dry season from June 15 to October 31.	ITP Condition # 7.9	Entire Project	Permittees	
49	The Designated Biologist(s) and Permittees 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, Permittees 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 7.5 above.	ITP Condition # 7.10	Entire Project	Permittees	
50	Permittees shall confine all construction to daylight hours (sunrise to sunset).	ITP Condition # 7.11	Entire Project	Permittees	
51	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 # 7.12	Entire Project	Permittees	
52	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 # 7.13	Entire Project	Permittees	
53	Permittees 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 Permittees 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 # 7.14	Entire Project	Permittees	
54	Permittees 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. Permittees shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 7.15	Entire Project	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
55	<p>The Designated Biologist(s) and/or Biological Monitor(s) shall inspect all open holes, sumps, and trenches within each Work Area at the beginning and end of each day for trapped animals. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are up to eight feet deep shall be covered when workers or equipment are not actively working in the excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than eight feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each work day. To prevent inadvertent entrapment of the Covered Species, the Designated Biologist(s) and/or Biological Monitor(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning, end of each day (including weekends and any other non-work days), and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or Biological Monitor(s) shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. If any worker discovers that Covered Species have become trapped, Permittees shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) shall capture and relocate the Covered Species as per the Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 6.7 above.</p>	ITP Condition # 7.16	Entire Project	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	<p>Permittees shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittees 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. Notification shall include the date, time, location and circumstances of the incident and the name of the facility where the animal was taken. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center, 2001). 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, 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 Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 6.7. Permittees 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 6.9. 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 6.9. Permittees 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 6.9. 	ITP Condition # 7.17	Entire Project	Permittees	
57	<p>Permittees, its 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 contacting the Regional Office at R4CESA@wildlife.ca.gov and emailing the Regional Representative. 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, Permittees 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 Permittees as to the final disposition of the carcass.</p>	ITP Condition # 6.9	Entire Project	Permittees	
58	<p>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.</p>	ITP Condition # 5.3	Entire Project	CDFW	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
POST-CONSTRUCTION					
59	Upon completion of Covered Activities, Permittees shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.16	Post-construction	Permittees	
60	No later than 45 days after completion of all mitigation measures, Permittees 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 # 6.6	Post-construction and after completion of mitigation	Permittees	



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: _____ DATE: _____
Regional Manager's Signature

REJECTED ___ Region: _____

Explanation: _____

ATTACHMENT 2B
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 3

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

Issue Date: [**date**]

Beneficiary:

Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: HCPB Mitigation Account 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 the CDFW pursuant to the terms of the incidental take permit for the [**name of project**] issued by the 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 the CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. The 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 the CDFW as defined in paragraph 12 below. Presentation by the 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 the CDFW, or to the account of the CDFW, in immediately available funds, as the CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the 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, the 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 the CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the Department of Fish and Wildlife, the General Counsel of the Department of Fish and Wildlife, or a Regional Manager of the Department of Fish and Wildlife.
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 the 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 the CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account 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 the 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: _____

ATTACHMENT A

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

To:

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

Re: Incidental Take Permit No. [**permit number**]

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

1. [**Insert one of the following statements:** "In the opinion of the 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 the CDFW that the Credit will not be extended and the Applicant has not provided the CDFW with an equivalent security approved by the 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. The 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, the CDFW has executed and delivered this Certificate as of the ____day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

ATTACHMENT B

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

To:

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

Re: Incidental Take Permit No. [**permit number**]

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

1. [**Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The natural expiration of this Credit has occurred."]
2. The CDFW therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

Attachment 4

California Department of Fish and Wildlife
Mitigation Payment Transmittal Form

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 FASB Mitigation Tracking Number (if available) on the attached payment type.

(1) **DATE:** _____

TO: _____

[CDFW Regional Manager]

[CDFW 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 1802 Agreement

2835 NCCP Other _____

XXXX-XXXX-XXX-XX

[Project Tracking Number]

[FASB Mitigation Tracking Number (if available)]

Index _____ PCA _____

(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: _____

Attachment 5

Amended Incidental Take Permit No. 2081-2015-014-04 Amendment No. 1

Gavilan College San Benito Campus and Fairview Corners Residential Development

1. The Permittee sections have been amended as follows:

Permittee: Gavilan Joint Community College District

Principal Officer: ~~Steven M. Kinsella~~Pedro Avila,
Superintendent/President

Mailing Address: 5055 Santa Teresa Boulevard
Gilroy, California ~~95037~~95020

Permittee: Fairview Corners, LLC

Principal Officer: Richard B. Oliver, President

Contact Person: Mary Beth Long, 408-779-5900

Mailing Address: c/o FC Investors LLC, Co-Manager
385 Woodview Avenue, Suite 100
Morgan Hill, California 95037

Permittee: FOR California Development, LLC

Principal Officer: David Corry, Division President

Contact Person: David Corry, 805-634-6215

Mailing Address: 956 Walnut Street, Suite 200A
San Luis Obispo, California 93401

2. The Amended ITP Background section has been inserted preceding the Effective Date and Expiration Date section as follows:

Amended ITP¹ Background:

On January 13, 2017, CDFW issued the original ITP No. 2081-2015-014-04 to Gavilan Joint Community College District and Fairview Corners, LLC, authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Gavilan College San Benito Campus and Fairview Corners Residential Development (Project) in San Benito County, California. The Project as described in the original ITP includes the development of 137 acres, of which approximately 7.5 acres is unimproved rangeland and the remainder is cultivated hayfields, into a college campus and residential subdivision. The Gavilan College San Benito Campus will be constructed on the southern portion of the Project site on an approximately 77-acre site located adjacent to the northeast corner of Fairview Road and Airline Highway. The Fairview Corners Residential Development

¹When this incidental take permit and attachments refer to the "ITP", it means the "Amended ITP" unless the context dictates otherwise.

will be constructed on the northern portion of the Project site on an approximately 60-acre site located directly east of Fairview Road.

In 2024, the entity, FOR California Development, LLC, acquired approximately 20 acres of the approximately 60-acre Fairview Corners Residential Development site. In addition, FOR California Development, LLC, was granted a temporary construction easement across approximately 8 acres of the remaining 40-acre portion of the Fairview Corners Residential Development site retained by Fairview Corners, LLC.

On February 7, 2025, CDFW received a written request from Fairview Corners, LLC, and FOR California Development, LLC, acknowledged and consented by Gavilan Joint Community College District, for an amendment to the ITP to add FOR California Development, LLC, as a Permittee on the ITP. On February 3, 2025, CDFW received the corresponding fee payment. CDFW finds that this Amendment (Amendment No. 1) is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of Amendment No. 1 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 1 increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of Amendment No. 1 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).

CDFW now reissues this ITP including the revised provisions in Amendment No. 1 (collectively, the Amended ITP). The Amended ITP includes all of the operative provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended ITP shows the specific red-line changes made to the ITP as a result of Amendment No. 1.

3. The Effective Date and Expiration Date section has been amended as follows:

Effective Date and Expiration Date of this ITP:

~~This~~The original ITP ~~shall be~~was executed in duplicate original form and ~~shall become~~became effective ~~once~~when a duplicate original ~~is~~was acknowledged by signature of the Permittees on the last page of ~~this~~the original ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. The original ITP's effective date was February 10, 2017. This remains the effective date for the original take authorization. This Amended ITP shall become effective when issued by CDFW. Unless renewed by CDFW, this ~~ITP's~~ Amended ITP and its authorization to take the Covered Species shall expire on **January 1, 2036**.

* * *

4. Condition of Approval 4 has been amended as follows:

ITP Time Frame Compliance and Joint and Several Liability:- Permittees 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. All terms and conditions of this ITP, including those set forth in the attached MMRP, shall be binding upon each of the ~~two (2)~~three (3) Permittees.

Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee is jointly and severally liable for providing and maintaining security in accordance with this ITP and for performance of all other terms, conditions, and obligations of this ITP, including, but not limited to, those set forth in the attached MMRP. Any failure by one or more Permittees to comply with any term, condition, or obligation set forth in this ITP shall be deemed a failure to comply by ~~both~~all three Permittees.

5. Condition of Approval 6.9 has been amended as follows:

Notification of Take or Injury. Permittees, its 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~~contacting the Regional Office at ~~(559) 243-4005~~R4CESA@wildlife.ca.gov and emailing the Regional Representative. 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, Permittees 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 Permittees as to the final disposition of the carcass.

6. Condition of Approval 6.10 has been amended as follows:

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 6.7. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by ~~calling~~contacting the Regional Office at ~~(559) 243-4005~~R4CESA@wildlife.ca.gov and emailing the Regional Representative. 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, Permittees 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. The Notices section has been amended as follows:

Notices:

~~Permittees 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
1416 Ninth Street, Suite 1266
Sacramento, California 95814~~

* * *

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
Fax (559) 243-4022
R4CESA@wildlife.ca.gov~~

and a copy to:

~~Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1266
Sacramento, California 95814
CESA@wildlife.ca.gov~~

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

~~[Brandon Sanderson](#) [Stephanie Manzo](#)
California Department of Fish and Wildlife
~~3196 Higuera Street, Suite A
San Luis Obispo, California 93401
1234 East Shaw Avenue
Fresno, California 93710
Telephone (805) 594-6141(559) 578-0409
Fax (805) 542-4609
Stephanie.Manzo@wildlife.ca.gov~~~~

8. The Compliance with CEQA section has been amended as follows:

Compliance with CEQA:

* * *

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 agencies’ 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. 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 No. 1.

9. The Attachments section has been amended as follows:

Attachments:

* * *

ATTACHMENT 1	Mitigation Monitoring and Reporting Program <u>(Amendment No. 1)</u>
ATTACHMENT 2A, 2B	Proposed Lands for Acquisition Form; Habitat Management Lands Checklist
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form
<u>ATTACHMENT 5</u>	<u>Minor Amendment No. 1 with Track Changes</u>

10. The Acknowledgement section has been removed:

ACKNOWLEDGMENT

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

~~**Gavilan Joint Community College District**~~

~~By: _____ Date: _____~~

~~Printed Name: _____ Title: _____~~

Fairview Corners LLC

By: _____ Date: _____

Printed _____