

RESOLUTION NO. _____(N.C.S.)

**RESOLUTION AMENDING MITIGATION MONITORING AND
REPORTING PROGRAM FOR CENTRAL AREA SPECIFIC PLAN
(CASP Mitigation Measures 3.2-1 through 3.2-8)**

WHEREAS, in November 2020, the City Council of the City of Salinas (“City Council”) certified a Final Environmental Impact Report (“Final EIR”) for, and approved, the Central Area Specific Plan (“CASP” or “the Project”); and

WHEREAS, in doing so, the City Council also adopted a Mitigation Monitoring and Reporting Program (“MMRP”) for the CASP via Resolution No. 21998 (N.C.S.) (see Exhibit C thereto); and

WHEREAS, the MMRP included mitigation measures addressed to the Project’s potential adverse effects on the California tiger salamander (“CTS”) and the California red-legged frog (“CRLF”) and their habitats (see Mitigation Measures 3.2-1 through 3.2-4), as well as the Western Pond Turtle (see Mitigation Measure 3.2-5), birds (see Mitigation Measure 3.2-6), the Monterey Dusky-Footed Woodrat (see Mitigation Measure 3.2-7) and bats (see Mitigation Measure 3.2-7); and

WHEREAS, the MMRP also included a mitigation measure addressing the anticipated disturbance of Gabilan Creek, Natividad Creek (and their tributaries) and “irrigation ditches,” which might possibly be subject to the regulatory jurisdiction of the United States Army Corps of Engineers (“USACE”) or the California Department of Fish and Wildlife (“CDFW”); and

WHEREAS, the CTS is listed as “threatened” under both the federal Endangered Species Act (“ESA”) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (“CESA”) (Fish & G. Code, § 2050 et seq.); and

WHEREAS, the CRLF is listed as threatened under ESA but is not listed under CESA; and

WHEREAS, in their final form as set forth in the MMRP, the mitigation measures directed at the CTS assumed the need for formal consultation and permitting under both the ESA and CESA; and

WHEREAS, the mitigation measures directed at the CRLF assumed the need for consultation and permitting under the ESA; and

WHEREAS, the relevant federal agency for ESA consultation and permitting is the United

States Fish and Wildlife Service (“USFWS”), and the relevant state agency under CESA is the CDFW; and

WHEREAS, the City of Salinas (“City”) staff has recently learned that it is not certain that such ESA and CESA consultations will actually be necessary, as the City staff and the City’s environmental consultants had assumed in 2020; and

WHEREAS, this new information suggests that there are at least some areas within the CASP in which development could occur without adverse effects on either CTS or CRLF or viable habitat for the species; and

WHEREAS, City staff has therefore recommended that the relevant mitigation measures be modified to require such ESA and/or CESA consultation only if a qualified biologist determines that habitat for CTS and CRLF is actually present, or potentially present, within areas subject to discrete proposed “development projects” within the overall CASP; and

WHEREAS, City staff has also identified possible improvements to the mitigation measures directed at the Western Pond Turtle, birds, bats, and the Monterey Dusky-Footed Woodrat; and

WHEREAS, City staff has also identified possible improvements to the sole mitigation measure directed at Gabilan Creek and Natividad Creek (and their tributaries) and the irrigation ditches and/or roadside ditches within the CASP; and

WHEREAS, this measure currently requires the CASP developers to impose on USACE and CDFW by seeking from them formal determinations as to whether the two agencies exercise any regulatory authority over the filling or destruction of the ditches; and

WHEREAS, the CASP developers would likely save substantial amounts of time and money if such determinations could initially be made by a qualified wetland consultant; and

WHEREAS, the mitigation measure dealing with the ditches would also be improved if the qualified wetland consultant also reached a determination regarding the possible regulatory authority of the Regional Water Quality Control Board over the ditches; and

WHEREAS, the recommended changes to Mitigation Measures 3.2-1 through 3.2-8 could facilitate the development of housing within the CASP; and

WHEREAS, the City Council is interested in taking reasonable actions to assist the CASP developers in their efforts to bring new housing to the market, thereby benefiting City residents who

are interested in purchasing, renting, or leasing such new housing; and

WHEREAS, the City Council, as a legislative body, has the inherent authority to modify its legislative action approving the MMRP for the CASP; and

WHEREAS, CEQA case law recognizes that adopted mitigation measures may be modified, and even deleted entirely, where an agency's decision-making body has a "legitimate reason" for taking such action (see, e.g., *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358-360); and

WHEREAS, the City Council believes it has a legitimate reason for modifying CASP mitigation measures identified herein in a manner that does not weaken them from an environmental standpoint, in that such changes, by possibly avoiding unnecessary consultations under ESA, the Clean Water Act ("CWA"), CESA, and other provisions of the Fish and Game Code could result in bringing much-needed new housing to the market Salinas sooner than might otherwise be the case; and

WHEREAS, the changes to CASP Mitigation Measures 3.2-1 through 3.2-8 do not represent a weakening of the measures, in that the measures as modified will:

(i) include a performance standard by which, if qualified biologists, after surveying properties within the CASP, find the presence of suitable CTS habitat or CRLF habitat, development must be mitigated in a manner resulting in "no net loss of habitat values and functions (though not necessarily acreage)";

(ii) leave in place all avoidance and minimization measures previously required to address potential impacts to CTS or CRLF, provided that suitable habitat is identified; and

(iii) require a qualified wetland biologist to ascertain whether the filling and/or destruction of the irrigation and/or roadside ditches within the CASP are subject to the regulatory jurisdiction of USACE, CDFW, or RWQCB under the CWA or the Fish and Game Code; and

WHEREAS, such changes to CASP Mitigation Measures 3.2-1 through 3.2-8 would not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects within the meaning of section 15162, subdivision (a)(1), of the CEQA Guidelines, found in Title 14 of the California Code of Regulations; and

WHEREAS, such changes to CASP Mitigation Measures 3.2-1 through 3.2-8 are "within the

scope” of the CASP EIR (see CEQA Guidelines section 15168, subdivision (c)(2) and Draft EIR, pp. 1.0-2 through 1.0-4) and thus may be approved without additional documentation under CEQA;

NOW, THEREFORE, BE IT RESOLVED that the City of Salinas City Council finds and determines the following:

1. The foregoing recitals are true and correct and are included herein by reference as findings.

2. The residents of the City of Salinas will benefit from changes to CASP Mitigation Measures 3.2-1 through 3.2-8 in that, without weakening them from an environmental standpoint, such changes may contribute to facilitating the earlier development of new housing for those citizens in need of new housing.

3. The CASP EIR, without any need for augmentation, provides sufficient support for the changes to CASP Mitigation Measures 3.2-1 through 3.2-8, as set forth below.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Salinas City Council hereby:

a. Authorizes the amendment of the CASP MMRP, as approved by Resolution No. 21998 (N.C.S.) on November 17, 2020, so that Mitigation Measures 3.2-1 through 3.2-8 will now read as shown on the attached (with additions shown in underlining and deletions shown in ~~striketrough~~).

b. Directs the City Community Development Department, at her discretion, within five (5) days of the enactment of this Resolution, to file with the Clerk of the County of Monterey and the Governor’s Office of Land Use and Climate Innovation, pursuant to Public Resources Code section 21152, subdivision (a), a Notice of Determination indicating that, in approving the Resolution, the City Council relied on the CASP EIR, as originally certified on December 19, 2019.

c. Directs City Community Development Department to prepare a modified official version of the CASP MMRP reflecting the wording changes set forth above and to make said document readily available to the CASP developers and any interested members of the public.

PASSED AND APPROVED this 17th day of March 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dennis Donohue, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

Attachment A: Modified Mitigation Measures 3.2-1 through 3.2-8 (with additions shown in underlining and deletions shown in ~~striketrough~~).