



December 16, 2019

California Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
1740 North Market Boulevard
Sacramento, CA 95834

RECEIVED

DEC 17 2019

HABITAT CONSERVATION
PLANNING BRANCH

Re: Incidental Take Permit for South of Tioga (2081-2018-078-04)

Dear CDFW,

Pursuant to the instructional letter dated December 5, 2019 from Julie Vance, Regional Manager, Central Region of the California Department of Fish and Wildlife, please find enclosed one executed copy of the Incidental Take Permit for South of Tioga (2081-2018-078-04) for your records and processing.

Thank you,

A blue ink handwritten signature, appearing to read "Matt Nohr", with a long horizontal flourish extending to the right.

Matt Nohr
On behalf of DBO Development No. 30, LLC



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DEC 17 2019

HABITAT CONSERVATION
PLANNING BRANCH

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

California Endangered Species Act
Incidental Take Permit No. 2081-2018-078-04

SOUTH OF TIOGA

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:	DBO Development No. 30
Principal Officer:	Matt Nohr, Director of Development
Contact Person:	Matt Nohr, (831) 649-0220
Mailing Address:	10 Harris Court, Suite B-1 Monterey, California 93940

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2027**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 5.6 of this ITP.

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

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

Project Location:

The South of Tioga development (Project) is within the city limits of Sand City, Monterey County, California, approximately 600 feet east of State Route 1 at approximately 36.6156, -121.8465 (Figure 1). The Project lies at the intersection of California and Tioga avenues and is bounded by Tioga Avenue to the northeast and California Avenue to the east-southeast (Figure 2). The Project site includes all or portions of the following Monterey County Assessor's Parcel Numbers:

011-122-002;
011-122-003;
011-122-004;
011-122-005;
011-122-010;
011-122-011;
011-122-023;
011-122-024;
011-122-025;
011-122-026;
011-122-032;
011-122-038;
011-122-039;
011-122-040;
011-122-041;
011-123-001;
011-123-004;
011-123-005;
011-123-006;
011-123-007;
011-123-008;
011-123-009;
011-123-011;
011-123-022;
011-123-023;
011-123-024;
011-123-025;
011-123-026;
011-134-011;
011-135-001;
011-135-014;
011-135-015;
011-135-016;
011-135-023;

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT No. 30
SOUTH OF TIOGA

011-135-024;
011-136-007;
011-136-012;
011-136-024;
011-186-021;
011-186-038; and
011-186-039.

Project Description:

The Project is a redevelopment project that includes removal of existing structures, utilities, and streets and development of 10.63 on-site acres of land into a 356-unit multi-family residential building with roof-top restaurant, a 216-room hotel, and supporting parking facilities and landscaped areas. An additional 1.15 acres of development will consist of off-site utility and street improvements within paved rights-of-way. In total, the Project will impact 11.78 acres. In support of the Project, existing structures will be demolished; existing lots will be merged; existing public rights-of-way will be abandoned; six new parcels will be created; additional right-of-way to existing streets will be dedicated; and rights-of-way for new streets will be dedicated.

Given the Project's vesting tentative map, the Project site will be divided into six parcels (Figure 3, Table 1). Development on each parcel is as follows:

Parcel H1. Parcel H1 is in the northeastern section of the Project site and will measure 2.18 acres in area. This parcel will be developed with a 216-room hotel and surface parking spaces. The hotel building footprint will be 41,813 square-feet in area, and overall square footage of the development will be 142,813 square-feet. The hotel building will be four-stories and range between approximately 50 to 63 feet in height. Landscaping will be installed around the periphery of the hotel building and parking areas.

Parcel H2. Parcel H2 in the southeastern portion of the Project site, will measure 1.18 acres in area, and will be developed with surface parking spaces, landscaping, and utilities to support the hotel on Parcel H1.

Parcels H1A and H2A. These two parcels, along California Avenue, will be created to separate territory within the Coastal Zone from the other parcels outside of this zone. Parcels H1A and H2A will be reflective of zoning in the Coastal Zone. The only development proposed within these parcels are portions of the parking lot, landscaping, and utilities to support the hotel on Parcel H1. Parcel H1A will be 0.38 acres and Parcel H2A will be 0.30 acres.

Parcel R1. Parcel R1 in the northern portion of the Project site will measure 1.78 acres in area and will be developed with a 125-unit multi-family residential building with parking in

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA

a partly below-grade structure. The multi-family development footprint will be approximately 40,000 square-feet. The multi-family residential building will be approximately five stories tall over top of a two-story underground parking structure and will be approximately 85 feet in height. Open space will be provided on the parcel for use by residents. A roof-top restaurant will be included atop the residential building on this parcel.

Parcel R2. Parcel R2 in the southwestern portion of the Project site will measure 3.7 acres in area and will be developed with a 231-unit multi-family residential complex, with parking spaces, in a two- to three-story at-grade structure. The multi-family residential building will be five stories tall and approximately 65 feet in height and lie adjacent to a three-story parking structure. Open space will be provided on the parcel for use by residents.

Table 1. Vesting Tentative Map Acreage Summary

Location	Planned Uses	Acres
Parcel H1	Hotel	2.18
Parcel H1A	Hotel parking/landscaping	0.38
Parcel H2	Hotel parking/landscaping	1.18
Parcel H2A	Hotel parking/landscaping	0.30
Parcel R1	125 residential units + Habitat Management Lands	1.78
Parcel R2	231 residential units + Habitat Management Lands	3.70
East Street ROW	Public street	0.28
A Street ROW	Public street	0.83
<i>Project Site Total</i>		10.63
<i>Off-site Improvement Areas</i>		1.15
<i>Total</i>		11.78

Utility Improvements

Utility improvements made in support of the Project will generally consist of on-site and off-site improvements. On-site utility improvements will include removal of existing water lines within existing street rights-of-way; construction of new water lines in the new street rights-of-way; and construction of service lines into the new parcels; relocation of an existing sanitary sewer lift station, currently located within Parcel R1, to an underground vault within an easement in Parcel R1; construction of wastewater lines within the new street rights-of-way; construction of service lines into new parcels; construction of new storm drainage lines and percolation galleries within the new on-site public streets; stormwater will be retained and percolated on each parcel; and construction of new underground electricity and communication lines within new on-site rights-of-way with accompanying service lines into new parcels. Off-site utility improvements will include connection within the adjacent street rights-of-way to the Project site from water mains in the adjacent streets; connection of existing wastewater collection pipes within existing rights-of-way; direction of stormwater from California and Tioga avenues to the existing

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA

system in California Avenue as well as connection to the existing collection pipes leading to the Playa Avenue percolation gallery; and undergrounding of existing above-ground utility lines within California Avenue and Tioga Avenue rights-of-way.

Street Improvements

The Project will also include street improvements, comprised of on-site and off-site improvements. On-site street improvements will consist of reconstruction of East Avenue within a new right-of-way slightly to the south of the existing East Avenue right-of-way; connection of Tioga Avenue and California Avenue through construction of a new street; and removal of existing on-site streets. Off-site street improvements will include construction of approximately 1.15 acres of street improvements within the Tioga Avenue and California Avenue rights-of-way; additions to the existing rights-of-way of both Tioga and California avenues; improvements to approximately two-thirds of the Tioga Avenue right-of-way; removal of the first 20 feet of each street to base rock and re-paving of these portions; construction of sidewalks along California Avenue and reconstruction of sidewalks along Tioga Avenue; undergrounding of electrical and communication utilities; and connection to existing water, wastewater, and storm drainage system. Street improvements will not extend beyond the property frontage.

Demolition and Grading

The Project will remove all existing buildings, utilities, street improvements, and landscaping within the site. The site will be re-graded within the development envelope (Figure 4). Grading will be tapered to the edge of the Project site near the on-site Habitat Management Lands. Total grading will entail 20,000 cubic yards of cut and 17,600 cubic yards of fill. Approximately 2,400 cubic yards of soil will be exported from the site.

Phasing

Construction of the Project will occur over three phases (Figure 5). Phase 1 will consist of demolition, roadway, and overall site improvements. Phase 2 will include development of the hotel. Phase 3 will include development of the multi-family residential portion of the project. Phasing timing and order of Phases 2 and 3 could occur concurrently and may vary with market demand.

Access

Access to the site for construction equipment and trucks is expected from Del Monte Boulevard and Tioga Avenue from the east, or Sand Dunes Drive and Tioga Avenue from the west (Figure 6).

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA

Staging

Demolition of existing structures will be staged in proximity to each structure slated for demolition, within vacant areas of the same property or on adjacent street rights-of-way. Grading, road construction, and utility construction will be staged to the area east and north of the new "A" Street; toward the corner of Tioga Avenue and California Avenue. Building development will be staged within each parcel or from within an adjacent vacant parcel.

Enhancement of On-site Habitat Management Lands

Enhancement of the 0.9-acre on-site Habitat Management Lands will involve closing and enhancement of a 0.1-acre sandy trail that currently leads to the Merle Street right-of-way (Figure 2). Enhancement activities may, but need not necessarily, include translocation of individual plants and/or seed, seeding, planting, removal of invasive plant species, and maintenance of areas cleared of invasive species.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Monterey gilia (<i>Gilia tenuiflora</i> ssp. <i>arenaria</i>)	Threatened ³

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

Impacts of the Taking on Covered Species:

The California Natural Diversity Database (CNDDDB) lists an occurrence of the Covered Species within the Project Area (CNDDDB Occurrence 3). Recent surveys conducted by California State University, Monterey Bay professor Fred Watson in 2017, EMC Planning Group in 2018, and Denise Duffy and Associates in 2019 demonstrate that the Project Area as a whole continues to support a population of up to nearly 22,000 individuals (Figures 7 and 8). Within the re-development portion of the Project Area, comprised of Parcels H1, H2, H1A, H2A, R1, and R2 (hereafter, "active Project Area"), a small 0.3-acre patch of suitable habitat for the Covered Species persists. This patch is currently isolated and surrounded by urban development on all sides and will be permanently removed as a result of Project development. Surveys of this 0.3-acre patch have been conducted to quantify the Project's impacts. A survey conducted in 2018 found only a single germinated individual within this 0.3-acre patch (Figure 7). A subsequent survey conducted in 2019, a year with ideal conditions for germination of the Covered Species, demonstrated the presence of 35 germinated/flowering individuals in this patch (Figure 8). The remainder and majority

³See Cal. Code Regs. tit. 14 § 670.2, subd. (b)(12)(A).

(21,777 individuals) of the on-site occurrence is isolated to the 0.9-acre western portion of the Project Area that is proposed for permanent protection as Habitat Management lands and located outside of the active Project Area (Figure 8). This 0.9-acre patch is contiguous with the largest known remaining dune population of the Covered Species (Watson 2018) and will be avoided and placed under conservation easement to be preserved and managed for the benefit of the Covered Species in perpetuity (Habitat Management Lands).

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: demolition of existing structures, utilities, streets, and landscaping; utility improvements as described above; street improvements as described above; grading activities as described above; compaction of soils; installation and maintenance of new landscaping; herbicide application during development and maintenance of landscaped areas; excavation to support utility and street improvements; vehicle and equipment staging; paving; vehicle traffic; and foot traffic associated with development of the Project (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as habitat loss and modification; trampling by construction workers or earthmoving equipment; removal of soil that render parts of the seed bank for the Covered Species inviable or causes it to be lost; erosion of substrates supporting individuals which could cause uprooting and burying of individuals and/or could make substrates unsuitable for growth; potential loss of seed stored for future restoration activities to mold, disease, or other reasons that cause inviability; herbicide/pesticide application; and failed attempts at translocation, if applicable, of the Covered Species. Incidental take of individuals may also occur in the form of capture if individuals and/or seed are salvaged, collected, and/or translocated during enhancement of on-site Habitat Management Lands. The areas where authorized take of the Covered Species is expected to occur is in the active Project Area; as well as those areas proposed for preservation to the west of Parcels R1 and R2 (Habitat Management Lands) (Figure 3) (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.3 acre of a known occurrence of the Covered Species, based on observations of 35 germinated/flowering individuals in 2019. 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 the following: introduction or spread of invasive species; construction-related fugitive dust that can coat individuals and reduce photosynthesis and evapotranspiration efficiency; herbicide application; and increased edge effects. In addition, individuals displaced due to habitat loss, degradation, or translocation may be unable to survive in adjacent areas if these areas are already at carrying capacity or are otherwise unsuitable for dispersal.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for seed collection and/or translocation of the Covered Species, if applicable, 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 as well as staging, parking, and demolition activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2017061066) certified by the City of San Diego on June 8, 2018 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
4. **General Provisions:**
 - 4.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT No. 30
SOUTH OF TIOGA

- 4.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) is knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist(s) must be changed. The Designated Biologist(s) may be assisted by approved biologists identified as Designated Monitors that may not meet the qualifications to be a Designated Biologist. Designated Monitors and their activities shall be approved in advance and in writing by CDFW.
- 4.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist/Designated Monitor shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 4.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 4.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee

shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.

- 4.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained and removed at least once a week.
- 4.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to minimize the potential for fugitive dust that could affect success of the Covered Species. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 4.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to the Covered Species and other species, such as monofilament netting, erosion control blankets, erosion control matting, or similar material in potential Covered Species' habitat.
- 4.9. Delineation of Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the active Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 4.10. Delineation of Work Area Boundaries. Before starting Covered Activities at each phase of development, the Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the active Project Area where Covered Activities will actively occur for that development phase. Permittee shall restrict all Covered Activities during that development phase to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.
- 4.11. Delineation of Habitat. Permittee shall clearly delineate the active Project Area from the on-site Habitat Management Lands with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize and prevent disturbance of Covered Species' habitat within on-site Habitat Management Lands.
- 4.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross

on-site Habitat Management Lands or Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the active Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 4.13. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the active Project Area, outside of the on-site Habitat Management Lands, using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the delineated active Project Area unless provided for as described in Condition of Approval 4.12 of this ITP.
- 4.14. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 4.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project Area and on-site Habitat Management Lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 4.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, boxes, and temporary fencing material.

5. Monitoring, Notification and Reporting Provisions:

- 5.1. 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.

- 5.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 5.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the active Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of monthly during periods of inactivity and after clearing, grubbing, and grading are completed.
- 5.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 5.3 into a Monthly Compliance Report and submit it to CDFW no later than the 15th of the month beginning with the month following the issuance of this ITP. The Monthly Compliance Reports shall be submitted along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative, Region's CESA Program, and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Renée Robison (Renee.Robison@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 5.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) 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 Monthly

Compliance Reports for that year identified in Condition of Approval 5.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 5.6. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs (Conditions of Approval 5.4 and 5.5; respectively); (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.
- 5.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 5.8. Notification of Take or Damage. Permittee shall immediately notify the Designated Biologist if an individual Covered Species is taken, destroyed, or damaged by a Project-related activity, or if a Covered Species is otherwise found dead within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by immediately calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, the number of individuals taken and/or damaged, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the individuals

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT No. 30
SOUTH OF TIOGA

(GPS coordinates), a photograph, explanation as to cause of take, circumstances of the incident, and any other pertinent information.

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

6. Take Minimization Measures:

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

- 6.1. Herbicide Use. Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is confined to the active Project Area; outside of on-site Habitat Management Lands and open space areas planned for Parcels R1 and R2, as described in Condition of Approval 6.4 below; and is otherwise not conducted within 50 feet of the on-site Habitat Management Lands. In all other areas of the active Project Area, herbicide application shall be conducted by a licensed applicator in accordance with all applicable State, federal, and local regulations. Permittee shall only apply herbicide via ground application when wind speed measures less than 3 miles per hour. All herbicide utilized within the active Project Area shall contain a dye to prevent overapplication. Permittee shall ensure that great care is taken to avoid herbicide contact with any native vegetation outside the boundaries of the Project Area and all herbicide applied adjacent to suitable habitat features for the Covered Species (coastal dune scrub) outside of the Project Area shall also adhere to a 50-foot no-spray buffer zone and the conditions described immediately above.
- 6.2. Landscaping. Permittee shall submit a *Landscaping Plan* to CDFW for review and approval. The Plan shall include detailed specifications for all landscaping activities, such as species composition of seed mixes, seed application methods, plant palettes, planting substrates (e.g., weed free straw or mulch), and sources of landscaping materials. The Plan shall include a list of species that will be used in landscaping and shall limit landscaping to plant species that are non-invasive

designated ingress and egress routes. Access routes should be sited in accordance with Condition of Approval 4.12.

6.7. Covered Species Avoidance Buffer and Fencing. All Covered Species that would not be directly impacted by ground-disturbing activities shall be avoided by a minimum of 50 feet. Sturdy, highly visible, orange plastic construction avoidance fencing shall be installed around Covered Species avoidance areas and located in accordance with direction from the Designated Biologist(s). Fencing shall be permeable (e.g., safety fencing) to encourage natural sand accretion and deposition patterns. Fencing shall be securely staked and installed in a durable manner that would be reasonably expected to withstand wind and weather events and last at least through the construction period. Fencing shall be inspected at least biweekly, even during periods of inactivity, and maintained and/or replaced as necessary to prevent creation and spread of fencing-related litter. Fencing shall be removed upon completion of Covered Activities in the area containing the fencing. The Permittee may request a buffer reduction to be reviewed and approved in writing by CDFW. The buffer reduction request shall include the distance of the reduced buffer and an analysis of potential risks to Covered Species, including but not limited to, potential risks from erosion, changes in hydrology, and risks from any possible dust or chemical drift. The buffer reduction shall not be implemented without written approval by CDFW.

6.8. Restricted Access to On-Site Habitat Management Lands. Prior to the start of ground-disturbing Covered Activities, the entire 0.9-acre on-site Habitat Management Land area shall be fenced to prevent trespass. Fencing material and fencing design shall be submitted to CDFW for review and approval. In addition, the on-site Habitat Management Land area shall be signed with a minimum of one sign every 250 feet prohibiting trespass per fenced side; and with swinging gate(s) (e.g., Powder River Gate) with six inch corner supports to encompass, secure, and restrict access to the on-site Habitat Management Lands.

7. Habitat Management Land Acquisition and Enhancement:

The Project Area overlaps with the second largest overall population of the Covered Species and the largest population of the species recognized in the coastal dunes (Watson 2018). Given the importance of this population, 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

and not identified in the California Invasive Plant Council Inventory (<https://www.cal-ipc.org/plants/inventory/>).

- 6.3. Invasive Exotic Plant Species Removal. All invasive, exotic plant species that are disturbed by the Project shall be removed from the Project Area. Any ice plant (*Carpobrotus* and *Mesembryanthemum* species; *Conicosia pugioniformis*), veldt grass (*Ehrharta* species), pampas grass (*Cortaderia jubata*), Italian thistle (*Carduus pycnocephalus*), tocalote (*Centaurea melitensis*), yellow star thistle (*Centaurea solstitialis*), milk thistle (*Silybum marianum*), nonnative mustard (*Brassica* species), cape ivy (*Delairea odorata*), Scotch broom (*Cytisus scoparius*), French broom (*Genista monspessulana*), or other invasive exotic plant species shall be bagged and appropriately disposed of in a manner that avoids the risk of introduction or spreading of exotic species in or around the Project Area. Exotic species shall not be used in mulching, composting, or otherwise placed in or around the Project Area. Permittee shall not stockpile cut invasive plant material within the Project Area at any time.
- 6.4. Open Space Easement. Edge effects to the on-site Habitat Management Lands have the potential to result from landscaping and landscaping management practices within the open space areas planned in Parcels R1 and R2 of the active Project Area. To preserve the habitat value of the on-site Habitat Management Lands and prevent such edge effects, prior to initiation of Covered Activities, the Permittee shall submit an easement for CDFW review and approval prohibiting the following within the open space areas: (a) landscaping with plant species identified in the California Invasive Plant Council Inventory (<https://www.cal-ipc.org/plants/inventory/>); (b) use of contaminated landscaping materials (e.g., rock, sand, ground cover, etc.) that have the potential to introduce non-native invasive plant species; (c) use of herbicides; and (d) use of non-manual methods of non-native plant removal. The easement shall also require CDFW-approval of a planting palette and a buffer area between open space areas and on-site Habitat Management Lands containing CDFW-approved abiotic ground-cover material. The easement shall also be accompanied by an endowment to fund these management activities.
- 6.5. Heavy equipment. Heavy equipment used in implementation of Covered Activities shall be thoroughly washed and inspected prior to its use onsite to prevent introduction of invasive, exotic plant material (seeds, etc.) from being introduced to the Project Area and the on-site Habitat Management Lands.
- 6.6. Delineation of Ingress and Egress Routes. Permittee shall flag all access roads in the field from the paved road and vehicle operation shall be limited to these

habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 0.9 acre of on-site Habitat Management (HM) lands, containing approximately 22,000 individuals of the Covered Species, pursuant to Condition of Approval 7.1 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.2 below. Permanent protection and funding for perpetual management of compensatory habitat shall be complete before starting Covered Activities. The Permittee shall also enhance the 0.9-acre on-site HM Lands pursuant to Conditions of Approval 7.4 and 7.5 below.

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

7.1.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

7.1.2. 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 2) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

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

manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

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

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

- 7.2.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, non-profit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the

proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

7.2.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

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

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

7.2.2.2.1. 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.

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

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

7.2.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW

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

- 7.3. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 7.4. Habitat Enhancement. Permittee shall enhance the 0.9-acre on-site Habitat Management Lands, which currently support iceplant and include a sandy trail leading to the Merle Street right-of-way. Prior to initiating Covered Activities, the Permittee, as an element of the on-site Habitat Management Land's long-term management plan, shall prepare an *Enhancement Plan* in accordance with Condition of Approval 7.5 below.
- 7.5. Enhancement Plan. Permittee shall enhance the 0.9-acre Habitat Management Lands, which currently support non-native iceplant and a 0.1-acre trail leading to the Merle Street ROW. Prior to initiating Covered Activities, the Designated Biologist shall prepare an *Enhancement Plan* for the Covered Species detailing planned enhancement activities within the on-site Habitat Management Lands. At a minimum, the plan shall include the following information: (1) a discussion (and map) of the portion of the Project Area which represents intact habitat; (2) a description of the existing physical and biological conditions of the enhancement area prior to commencement of any enhancement activities; (3) a plan for the initial manual removal of non-native plant species, trash, and debris; (4) pesticide-free procedures to ensure that nonnative plants are not introduced or allowed to sustain within the Habitat Management Lands; (5) a plan for the annual manual removal of non-native plants; (6) monitoring and maintenance measures and a timeline; and (7) success standards and contingency measures if enhancement is unsuccessful. The Enhancement Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Enhancement Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to salvage, handle, and translocate the Covered Species, if determined necessary as an adaptive management strategy

should success criteria not be met through removal and management of non-natives alone. As an alternative to a separate plan, the Enhancement Plan can be included as part of a combined document with the final management plan required in Condition of Approval 7.1.5.

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

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

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

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-078-04) 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
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014
Fax (559) 243-4026

and a copy to:

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

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

Renée Robison
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014, extension 274
Fax (559) 243-4020

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, City of Sand City. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the South of Tioga Final Environmental Impact Report, (SCH No.: 2017061066) dated May 9, 2018, that the City of Sand City certified for the South of Tioga Project on June 8, 2018. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, South of Tioga EIR, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 0.9 acre 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;

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA

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

Attachments:


FIGURE 1	Map of Project Location
FIGURE 2	Map of Project Site
FIGURE 3	Site Plan
FIGURE 4	Grading Plan
FIGURE 5	Conceptual Phasing Plan
FIGURE 6	Map of Project Access Routes
FIGURE 7	2017 and 2018 Gilia Locations
FIGURE 8	Gilia Survey April 2019
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Proposed Lands for Acquisition Form
ATTACHMENT 3	Habitat Management Lands Checklist
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

References:

Watson, Fred. (Professor of Applied Environmental Science, California State University Monterey Bay, Marina, California). Letter to City of Sand City regarding the Draft Environmental Impact Report (DEIR) for South of Tioga. April 16, 2018.

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 12/6/19


for Julie A. Vance, Regional Manager
CENTRAL REGION

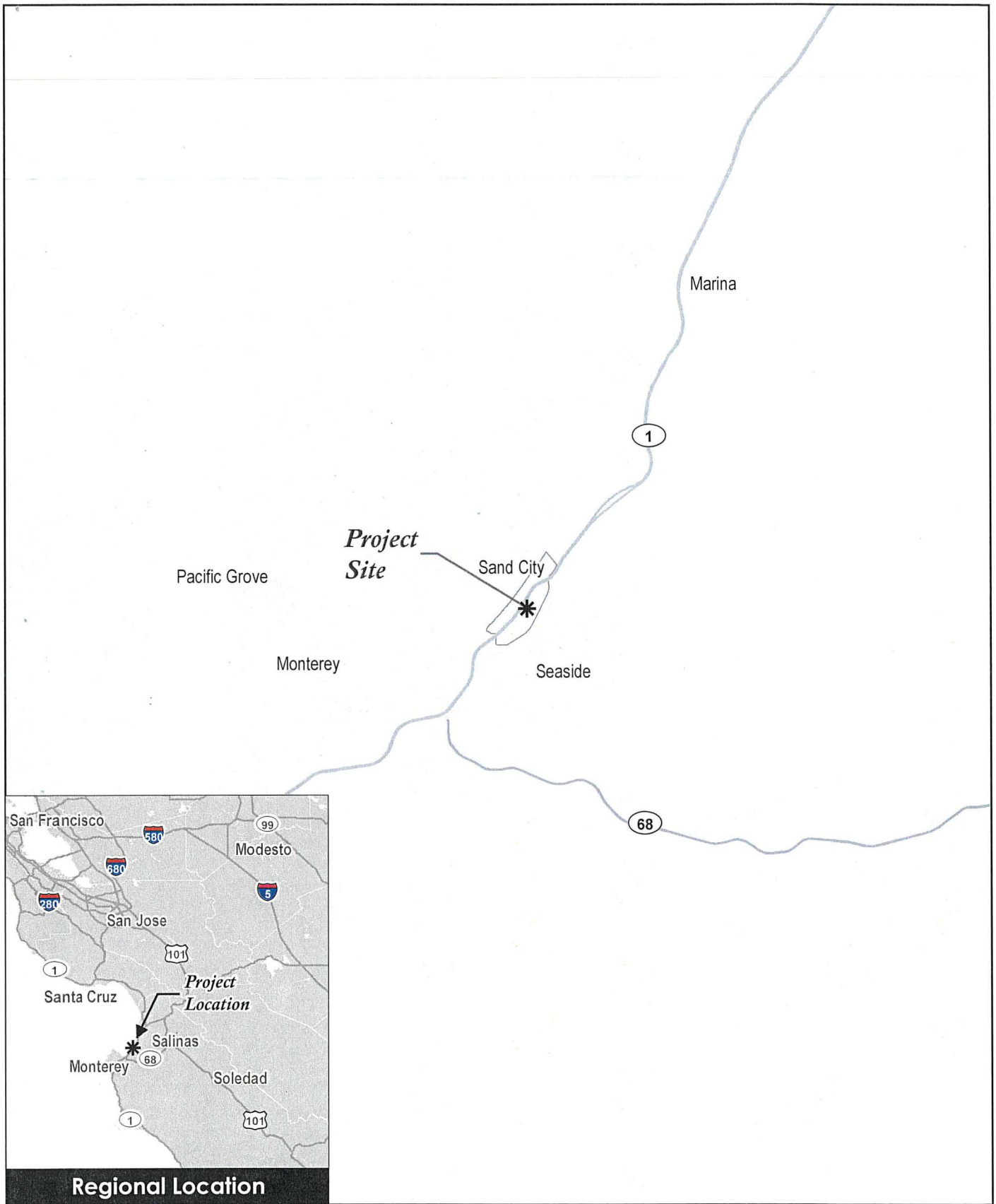
ACKNOWLEDGMENT

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

By:  Date: 12/13/19

Printed Name: DONALD B. ORESCO Title: MANAGING GENERAL PARTNER

Incidental Take Permit
No. 2081-2018-078-04
DBO DEVELOPMENT NO. 30
SOUTH OF TIOGA



Source: Esri 2018

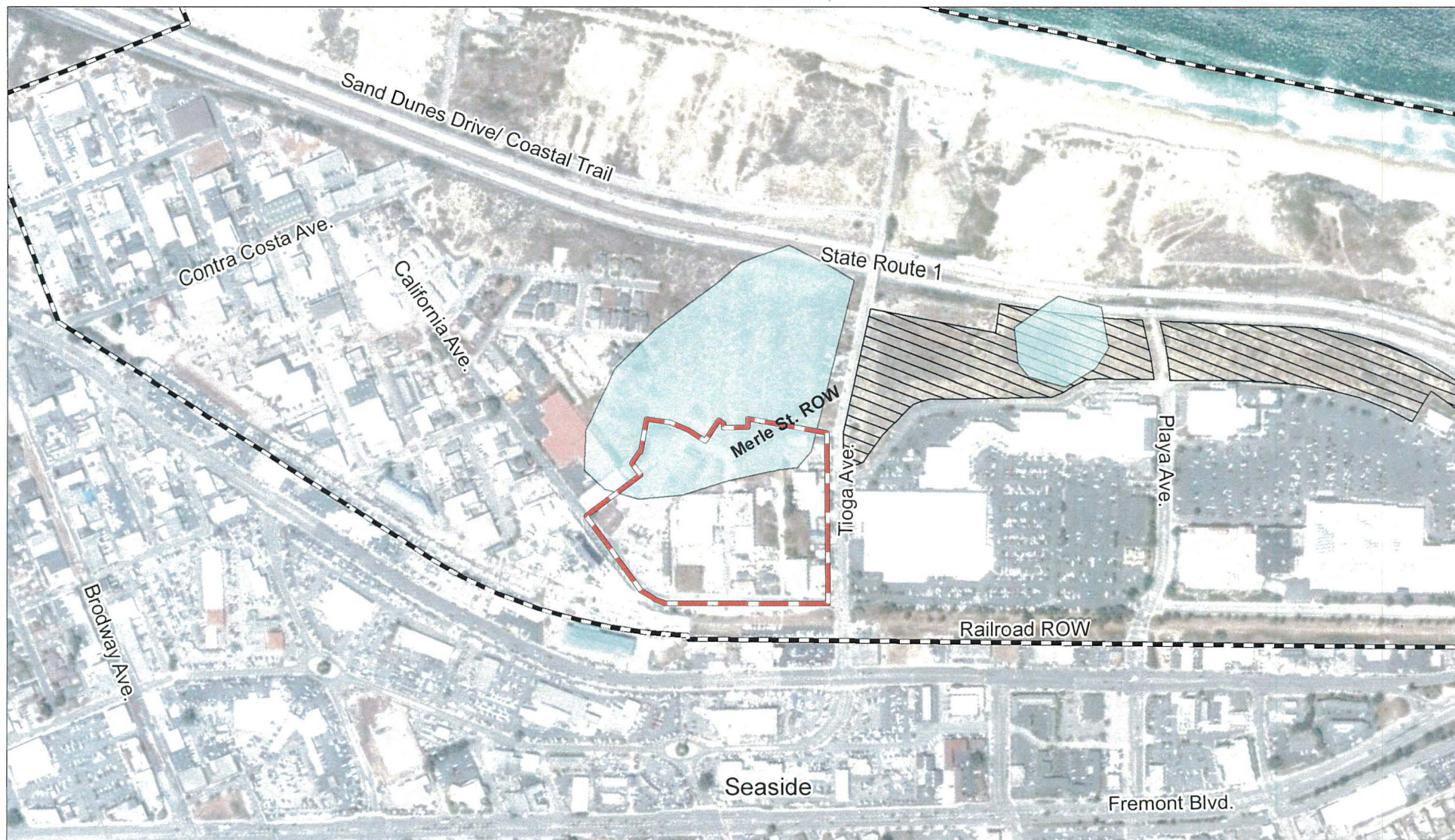
Figure 1

Project Location South of Tioga Project



0 2 miles





0 650 feet



Project Boundary



Sand City Limits



Monterey Gilia Locations



Sand Dollar Habitat Preserve

Source: Monterey County 2018, CNDDb 2018



Figure 2
Project Site

South of Tioga Project

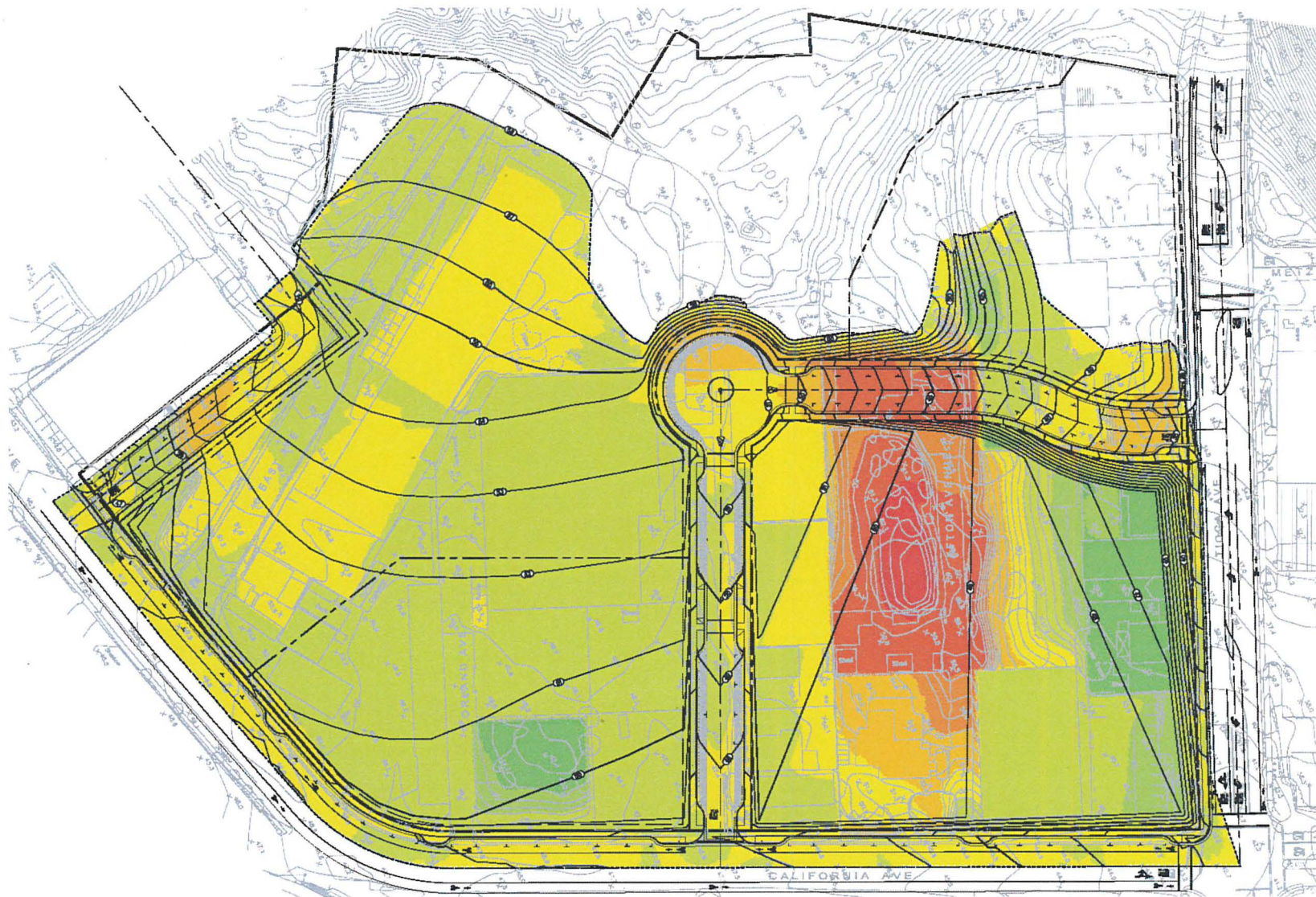


Area Proposed for Habitat Management Lands

Source: TCA Architects 2017

Figure 3
Site Plan

South of Tioga Project



Earthwork Legend			
Min Elev	Max Elev	Volume (CY)	Color
-18	-15	0	Red
-15	-12	218	Red
-12	-9	1348	Red
-9	-6	3234	Orange
-6	-3	4853	Orange
-3	0	9712	Yellow
0	3	12744	Yellow
3	6	2239	Green
6	9	750	Green

Earthwork Summary		
	CUT	FILL
ROUGH GRADING	20,000	15,300
SHRINKAGE - 15%	-	2,300
TOTAL EARTHWORK	20,000	17,600
NET	2,400 CUT	
AREA OF DISTURBANCE	8.9 AC	

NOTES

1. THE QUANTITIES PRESENTED ABOVE ARE ESTIMATES ONLY, BASED ON THE DIFFERENCE BETWEEN EXISTING GRADE AND PROPOSED ELEVATIONS, AS SHOWN ON THE PLANS.
2. ALL EARTHWORK QUANTITIES ARE TO: SUBGRADE, OVER-EXCAVATION, CLEARING AND STRIPPING ARE ESTIMATED TO BE AN ADDITIONAL 2,400 CUBIC YARDS. (2" OVER THE DISTURBED AREA)
3. DATE OF TOPOGRAPHY: JANUARY, 2017.



0 120 feet

Source: TCA Architects 2017

Figure 4 Grading Plan

South of Tioga Project

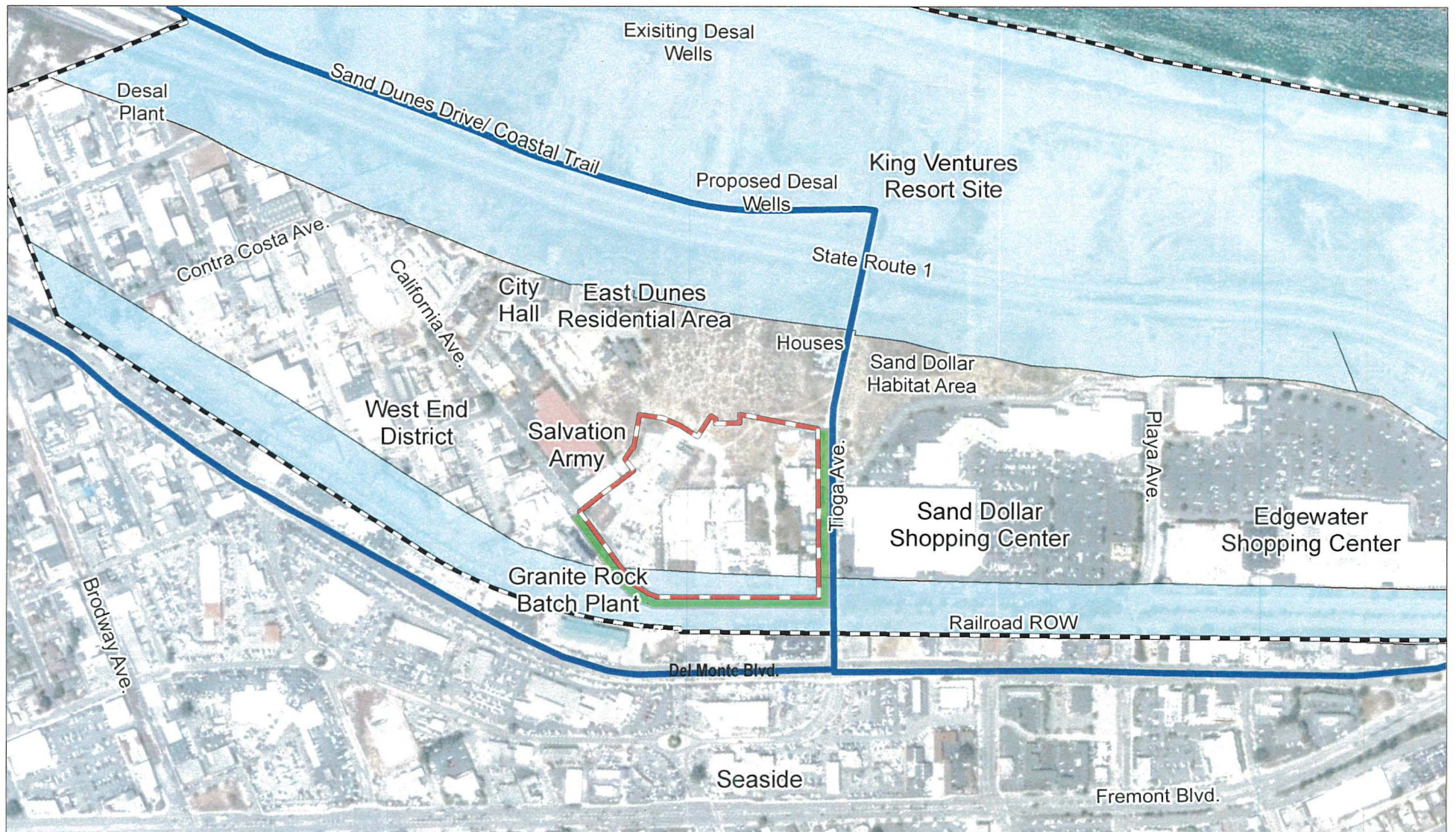
E

M

C



South of Tioga Project



0 650 feet



Project Boundary



Sand City Limits



Coastal Zone



Access Routes



Off-site Improvements

Source: Monterey County 2016



Figure 6
Project Access Routes
South of Tioga Project

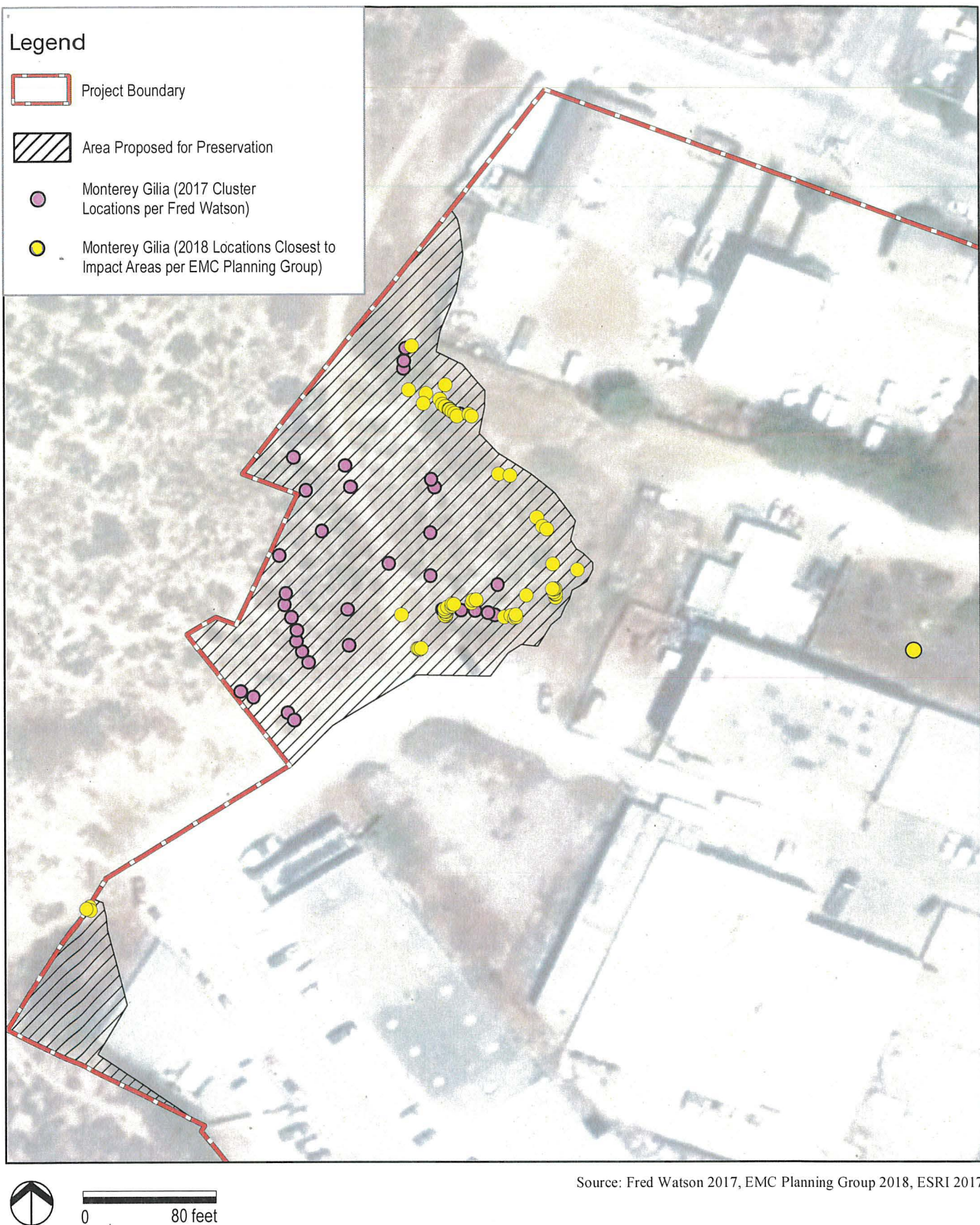
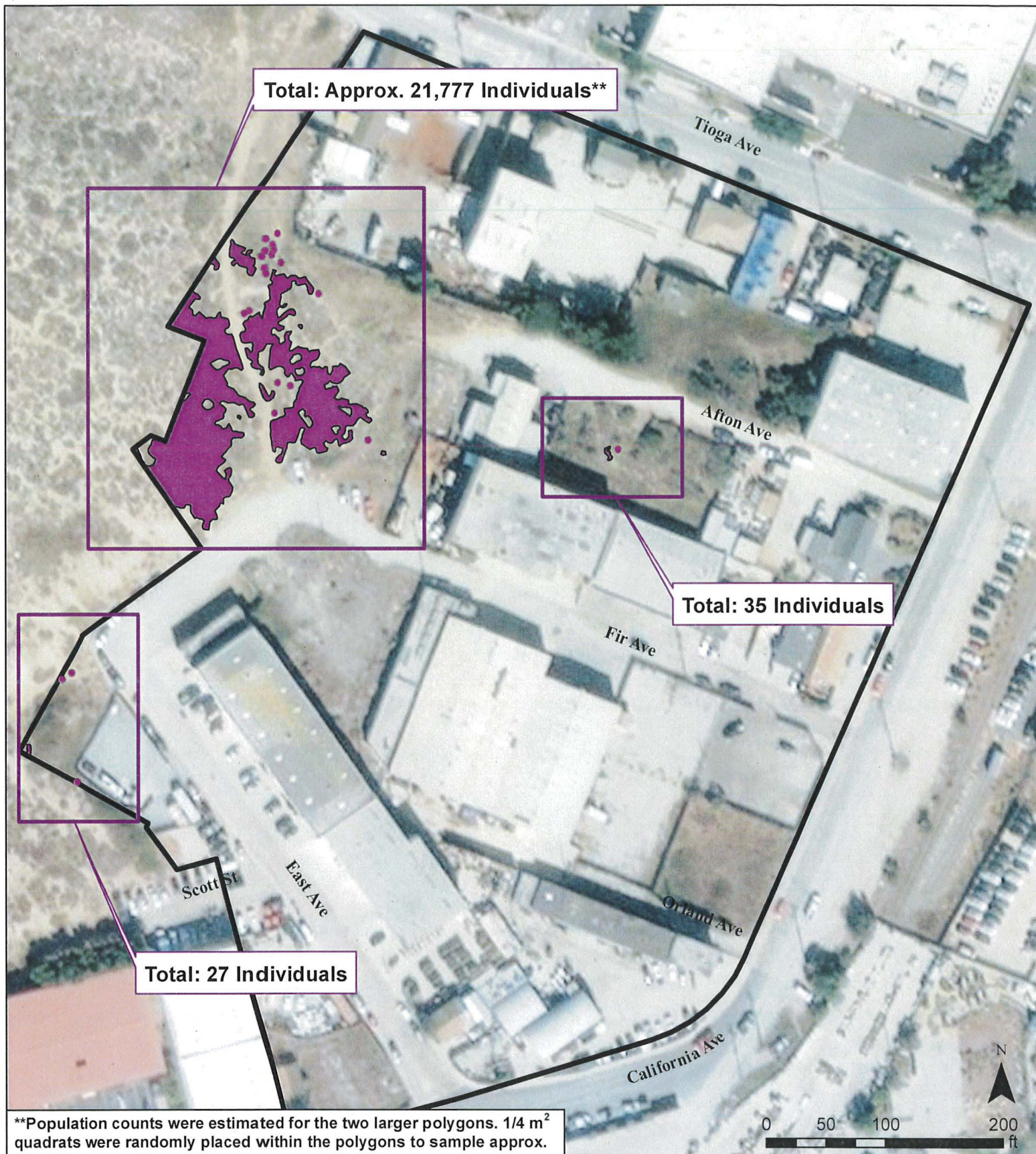


Figure 7

2017 and 2018 Monterey Gilia Locations

South of Tioga Project



****Population counts were estimated for the two larger polygons. 1/4 m² quadrats were randomly placed within the polygons to sample approx. 1% of the population.**

The following data were collected:

Western Polygon: 28 quadrats, 55 individuals (estimated population: 5,830)
 Eastern Polygon: 21 quadrats, 163 individuals (estimated population: 15,710)

- Project Boundary
- Sand Gilia (*Gilia tenuiflora* ssp. *arenaria*) ≥ 11 Plants
- Sand Gilia (*Gilia tenuiflora* ssp. *arenaria*) < 11 Plants

Gilia Survey April 2019

Date: 11/1/2019
 Scale: 1 in = 100 ft
 Project: 2018-62



Monterey | San Jose
Denise Duffy and Associates, Inc.
 Environmental Consultants Resource Planners
 947 Cass Street, Suite 5
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Figure
8

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2018-078-04

PERMITTEE: DBO Development No. 30

PROJECT: South of Tioga

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 4.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) is knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist(s) must be changed. The Designated Biologist(s) may be assisted by approved biologists identified as Designated Monitors that may 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 # 4.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
3	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 4.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained and removed at least once a week.	ITP Condition # 4.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to minimize the potential for fugitive dust that could affect success of the Covered Species. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 4.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	<u>Delineation of Property Boundaries.</u> Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the active Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 4.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Work Area Boundaries.</u> Before starting Covered Activities at each phase of development, the Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the active Project Area where Covered Activities will actively occur for that development phase. Permittee shall restrict all Covered Activities during that development phase to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.	ITP Condition # 4.10	Before commencing ground- or vegetation-disturbing activities / Entire Project		
8	<u>Delineation of Habitat.</u> Permittee shall clearly delineate the active Project Area from the on-site Habitat Management Lands with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize and prevent disturbance of Covered Species' habitat within on-site Habitat Management Lands.	ITP Condition # 4.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
9	<u>Notification Before Commencement.</u> 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 # 5.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	<u>Habitat Management Land Acquisition and Restoration.</u> Permittee shall provide for both the permanent protection and management of 0.9 acre of on-site Habitat Management (HM) lands, containing approximately 22,000 individuals of the Covered Species, pursuant to Condition of Approval 7.1 and the calculation and deposit of the management funds pursuant to Condition of Approval 7.2. Permanent protection and funding for perpetual management of compensatory habitat shall be complete before starting Covered Activities. The Permittee shall also enhance the 0.9-acre on-site HM Lands pursuant to Conditions of Approval 7.4 and 7.5.	ITP Condition # 7	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<u>Fee Title/Conservation Easement.</u> To provide for the acquisition and perpetual protection of the HM lands, the Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);	ITP Condition #7.1.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	<u>HM Lands Approval</u> . Permittee shall 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 2) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition #7.1.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	<u>HM Lands Documentation</u> . Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition #7.1.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	<u>Land Manager</u> . Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition #7.1.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<u>Start-Up Activities</u> . Permittee shall provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates) (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 enhancement; and (7) installing signage	ITP Condition #7.1.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	<u>Interim Management (Initial and Capital)</u> . Permittee shall provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, initial enhancement activities, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of five years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition #7.1.6	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	<p><u>Endowment Fund.</u> The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 7.2.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #7.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
18	<p><u>Identify an Endowment Manager.</u> The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, non-profit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).</p>	ITP Conditions #7.2.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
19	<p><u>Calculate the Endowment Funds Deposit.</u> After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p>	ITP Conditions #7.2.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
20	<p><u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</p>	ITP Conditions #7.2.2.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	<p><u>Endowment Buffers/Assumptions.</u> Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <ul style="list-style-type: none"> • <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding. • <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #7.2.2.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
22	<p><u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment 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.</p>	ITP Conditions #7.2.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
23	<p><u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	ITP Conditions #7.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
24	<p><u>Habitat Enhancement.</u> Permittee shall enhance the 0.9-acre on-site Habitat Management Lands, which currently support iceplant and include a sandy trail leading to the Merle Street right-of-way. Prior to initiating Covered Activities, the Permittee, as an element of the on-site Habitat Management Land's long-term management plan, shall prepare an Enhancement Plan in accordance with Condition of Approval 7.5.</p>	ITP Conditions #7.4	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<u>Enhancement Plan</u> . Permittee shall enhance the 0.9-acre Habitat Management Lands, which currently support non-native iceplant and a 0.1-acre trail leading to the Merle Street ROW. Prior to initiating Covered Activities, the Designated Biologist shall prepare an Enhancement Plan for the Covered Species detailing planned enhancement activities within the on-site Habitat Management Lands. At a minimum, the plan shall include the following information: (1) a discussion (and map) of the portion of the Project Area which represents intact habitat; (2) a description of the existing physical and biological conditions of the enhancement area prior to commencement of any enhancement activities; (3) a plan for the initial manual removal of non-native plant species, trash, and debris; (4) pesticide-free procedures to ensure that nonnative plants are not introduced or allowed to sustain within the Habitat Management Lands; (5) a plan for the annual manual removal of non-native plants; (6) monitoring and maintenance measures and a timeline; and (7) success standards and contingency measures if enhancement is unsuccessful. The Enhancement Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Enhancement Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to salvage, handle, and translocate the Covered Species, if determined necessary as an adaptive management strategy should success criteria not be met through removal and management of non-natives alone. As an alternative to a separate plan, the Enhancement Plan can be included as part of a combined document with the final management plan required in Condition of Approval 7.1.5.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
DURING CONSTRUCTION					
26	<u>Compliance Monitoring</u> . The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of 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 active 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 shall conduct compliance inspections a minimum of monthly during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 5.3	Entire Project	Permittee	
27	<u>Monthly Compliance Report</u> . The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 5.3 into a Monthly Compliance Report and submit it to CDFW no later than the 15th of the month beginning with the month following the issuance of the ITP. The Monthly Compliance Reports shall be submitted along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via email to CDFW's Regional Representative, Region's CESA Program, and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Renée Robison (Renee.Robison@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 5.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	<u>As-Built Development Plans</u> . Permittee shall submit as-built development plans to CDFW within sixty (60) days of completing each phase of Project construction. The as-built plan sheets shall delineate and quantify the extent of permanent Project features, including roads, utilities, landscaping, infrastructure, and all other facilities and features associated with that phase of the Project. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from survey data acquired after Project phase construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.	ITP Condition # 5.9	Entire Project	Permittee	
29	<u>Annual Status Report</u> . Permittee shall provide CDFW with an Annual Status Report (ASR) 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 Monthly Compliance Reports for that year identified in Condition of Approval 5.4; (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; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 5.5	Entire Project	Permittee	
30	<u>CNDDDB Observations</u> . The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 5.7	Entire Project	Permittee	
31	<u>Notification of Non-compliance</u> . The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of 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 # 5.2	Entire Project	Permittee	
32	<u>Construction Monitoring Notebook</u> . The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 4.5	Entire Project	Permittee	
33	<u>Erosion Control Materials</u> . Permittee shall prohibit use of erosion control materials potentially harmful to the Covered Species and other species, such as monofilament netting, erosion control blankets, erosion control matting, or similar material in potential Covered Species' habitat.	ITP Condition # 4.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	<u>As-Built Development Plans</u> . Permittee shall submit as-built development plans to CDFW within sixty (60) days of completing each phase of Project construction. The as-built plan sheets shall delineate and quantify the extent of permanent Project features, including roads, utilities, landscaping, infrastructure, and all other facilities and features associated with that phase of the Project. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from survey data acquired after Project phase construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.	ITP Condition # 5.9	Entire Project	Permittee	
29	<u>Annual Status Report</u> . Permittee shall provide CDFW with an Annual Status Report (ASR) 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 Monthly Compliance Reports for that year identified in Condition of Approval 5.4; (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; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 5.5	Entire Project	Permittee	
30	<u>CNDDDB Observations</u> . The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 5.7	Entire Project	Permittee	
31	<u>Notification of Non-compliance</u> . The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of 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 # 5.2	Entire Project	Permittee	
32	<u>Construction Monitoring Notebook</u> . The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 4.5	Entire Project	Permittee	
33	<u>Erosion Control Materials</u> . Permittee shall prohibit use of erosion control materials potentially harmful to the Covered Species and other species, such as monofilament netting, erosion control blankets, erosion control matting, or similar material in potential Covered Species' habitat.	ITP Condition # 4.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	<u>Project Access</u> . Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross on-site Habitat Management Lands or Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the active 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 # 4.12	Entire Project	Permittee	
35	<u>Staging Areas</u> . Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the active Project Area, outside of the on-site Habitat Management Lands, using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the delineated active Project Area unless provided for as described in Condition of Approval 4.12 of the ITP.	ITP Condition # 4.13	Entire Project	Permittee	
36	<u>Hazardous Waste</u> . Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 4.14	Entire Project	Permittee	
37	<u>CDFW Access</u> . Permittee shall provide CDFW staff with reasonable access to the Project Area and on-site Habitat Management Lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 4.15	Entire Project	Permittee	
38	<u>Herbicide Use</u> . Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is confined to the active Project Area; outside of on-site Habitat Management Lands and open space areas planned for Parcels R1 and R2, as described in Condition of Approval 6.4; and is otherwise not conducted within 50 feet of the on-site Habitat Management Lands. In all other areas of the active Project Area, herbicide application shall be conducted by a licensed applicator in accordance with all applicable State, federal, and local regulations. Permittee shall only apply herbicide via ground application when wind speed measures less than 3 miles per hour. All herbicide utilized within the active Project Area shall contain a dye to prevent overapplication. Permittee shall ensure that great care is taken to avoid herbicide contact with any native vegetation outside the boundaries of the Project Area and all herbicide applied adjacent to suitable habitat features for the Covered Species (coastal dune scrub) outside of the Project Area shall also adhere to a 50-foot no-spray buffer zone and the conditions described immediately above.	ITP Condition # 6.1	Entire Project	Permittee	
39	<u>Landscaping</u> . Permittee shall submit a Landscaping Plan to CDFW for review and approval. The Plan shall include detailed specifications for all landscaping activities, such as species composition of seed mixes, seed application methods, plant palettes, planting substrates (e.g., weed free straw or mulch), and sources of landscaping materials. The Plan shall include a list of species that will be used in landscaping and shall limit landscaping to plant species that are non-invasive and not identified in the California Invasive Plant Council Inventory (https://www.cal-ipc.org/plants/inventory/).	ITP Condition # 6.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	<u>Invasive Exotic Plant Species Removal.</u> All invasive, exotic plant species that are disturbed by the Project shall be removed from the Project Area. Any ice plant (<i>Carpobrotus</i> and <i>Mesembryanthemum</i> species; <i>Conicosia pugioniformis</i>), veldt grass (<i>Ehrharta</i> species), pampas grass (<i>Cortaderia jubata</i>), Italian thistle (<i>Carduus pycnocephalus</i>), tocalote (<i>Centaurea melitensis</i>), yellow star thistle (<i>Centaurea solstitialis</i>), milk thistle (<i>Silybum marianum</i>), nonnative mustard (<i>Brassica</i> species), cape ivy (<i>Delairea odorata</i>), Scotch broom (<i>Cytisus scoparius</i>), French broom (<i>Genista monspessulana</i>), or other invasive exotic plant species shall be bagged and appropriately disposed of in a manner that avoids the risk of introduction or spreading of exotic species in or around the Project Area. Exotic species shall not be used in mulching, composting, or otherwise placed in or around the Project Area. Permittee shall not stockpile cut invasive plant material within the Project Area at any time.	ITP Condition # 6.3	Entire Project	Permittee	
41	<u>Open Space Easement.</u> Edge effects to the on-site Habitat Management Lands have the potential to result from landscaping and landscaping management practices within the open space areas planned in Parcels R1 and R2 of the active Project Area. To preserve the habitat value of the on-site Habitat Management Lands and prevent such edge effects, prior to initiation of Covered Activities, the Permittee shall submit an easement for CDFW review and approval prohibiting the following within the open space areas: (a) landscaping with plant species identified in the California Invasive Plant Council Inventory (https://www.cal-ipc.org/plants/inventory/); (b) use of contaminated landscaping materials (e.g., rock, sand, ground cover, etc.) that have the potential to introduce non-native invasive plant species; (c) use of herbicides; and (d) use of non-manual methods of non-native plant removal. The easement shall also require CDFW-approval of a planting palette and a buffer area between open space areas and on-site Habitat Management Lands containing CDFW approved abiotic ground-cover material. The easement shall also be accompanied by an endowment to fund these management activities.	ITP Condition # 6.4	Entire Project	Permittee	
42	<u>Heavy equipment.</u> Heavy equipment used in implementation of Covered Activities shall be thoroughly washed and inspected prior to its use onsite to prevent introduction of invasive, exotic plant material (seeds, etc.) from being introduced to the Project Area and the on-site Habitat Management Lands.	ITP Condition # 6.5	Entire Project	Permittee	
43	<u>Delineation of Ingress and Egress Routes.</u> Permittee shall flag all access roads in the field from the paved road and vehicle operation shall be limited to these designated ingress and egress routes. Access routes should be sited in accordance with Condition of Approval 4.12.	ITP Condition # 6.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<u>Covered Species Avoidance Buffer and Fencing.</u> All Covered Species that would not be directly impacted by ground-disturbing activities shall be avoided by a minimum of 50 feet. Sturdy, highly visible, orange plastic construction avoidance fencing shall be installed around Covered Species avoidance areas and located in accordance with direction from the Designated Biologist(s). Fencing shall be permeable (e.g., safety fencing) to encourage natural sand accretion and deposition patterns. Fencing shall be securely staked and installed in a durable manner that would be reasonably expected to withstand wind and weather events and last at least through the construction period. Fencing shall be inspected at least biweekly, even during periods of inactivity, and maintained and/or replaced as necessary to prevent creation and spread of fencing-related litter. Fencing shall be removed upon completion of Covered Activities in the area containing the fencing. The Permittee may request a buffer reduction to be reviewed and approved in writing by CDFW. The buffer reduction request shall include the distance of the reduced buffer and an analysis of potential risks to Covered Species, including but not limited to, potential risks from erosion, changes in hydrology, and risks from any possible dust or chemical drift. The buffer reduction shall not be implemented without written approval by CDFW.	ITP Condition # 6.7	Entire Project	Permittee	
45	<u>Restricted Access to On-Site Habitat Management Lands.</u> Prior to the start of ground-disturbing Covered Activities, the entire 0.9-acre on-site Habitat Management Land area shall be fenced to prevent trespass. Fencing material and fencing design shall be submitted to CDFW for review and approval. In addition, the on-site Habitat Management Land area shall be signed with a minimum of one sign every 250 feet prohibiting trespass per fenced side; and with swinging gate(s) (e.g., Powder River Gate) with six-inch corner supports to encompass, secure, and restrict access to the on-site Habitat Management Lands.	ITP Condition # 6.8	Entire Project	Permittee	
46	<u>Notification of Take or Damage.</u> Permittee shall immediately notify the Designated Biologist if an individual Covered Species is taken, destroyed, or damaged by a Project-related activity, or if a Covered Species is otherwise found dead within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by immediately calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, the number of individuals taken and/or damaged, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the individuals (GPS coordinates), a photograph, explanation as to cause of take, circumstances of the incident, and any other pertinent information.	ITP Condition # 5.8	Entire Project	Permittee	
47	<u>Designated Biologist Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist/Designated Monitor shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 4.3	Entire Project	CDFW	
POST-CONSTRUCTION					
48	<u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, boxes, and temporary fencing material.	ITP Condition # 4.16	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	<u>Final Mitigation Report</u> . No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs (Conditions of Approval 5.4 and 5.5; respectively); (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 # 5.6	Post-construction and after completion of mitigation	Permittee	



Attachment 2
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

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

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

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

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ____

By: _____
Regional Manager's Signature

DATE: _____

REJECTED ____

Region: _____

Explanation: _____

ATTACHMENT 3
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

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

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

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

Documents in this package include:

- ☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed with legal description stamped by a licensed surveyor. Date executed: _____
- ☐ Proposed Lands for Acquisition Form (PLFAF)
- ☐ Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)
- ☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

- ☐ document(s) to support title exceptions
- ☐ document(s) to explain title encumbrances
- ☐ a plot or map of easements/encumbrances on the property
- ☐ Policy of Title Insurance (an existing title policy is not acceptable)
- ☐ County Assessor Parcel Map(s) for subject property
- ☐ Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)
- ☐ Final Permit or Agreement (or other appropriate instrument)
Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement
☐ Permit _____ Other: _____
(write in type of permit)
- ☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)
- ☐ Biological Resources Report
- ☐ Draft Summary of Transactions ☐ hard copy ☐ electronic copy (both are required)

ATTACHMENT 4
IRREVOCABLE STANDBY LETTER OF CREDIT
NO. [*Number issued by financial institution*]

Issue Date: [*date*]

Beneficiary:

Department of Fish and Wildlife
Post Office Box 944209
Sacramento, CA 94244-2090
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***"]

State of California - Department of Fish and Wildlife

MITIGATION PAYMENT TRANSMITTAL FORM

DFW 1057 (NEW 07/28/17)

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

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

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

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

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

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