



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 30, 2020

Mr. Dan Morgan
Morgan Properties, Inc.
150 Gate 5 Road, Suite 100
Sausalito, CA 94965
dan@gfcgroup.net

Subject: Incidental Take Permit for the Bay Village Homes Project, 2081-2014-066-03,
Sonoma County

Dear Mr. Morgan:

Enclosed is the Incidental Take Permit for the above referenced project, which has been signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully and sign the acknowledgement on the permit no later than 30 days from CDFW signature and prior to initiation of ground-disturbing activities. Alternatively, a signed hardcopy can be mailed to:

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

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

The permit will not take effect until the signed acknowledgment is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Melanie Day, Senior Environmental Scientist (Specialist), at Melanie.Day@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at Karen.Weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:
A handwritten signature in blue ink that reads "Gregg Erickson".
BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

Conserving California's Wildlife Since 1870



California Department of Fish and Wildlife
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534

California Endangered Species Act
 Incidental Take Permit No. 2081-2014-066-03

BAY VILLAGE HOMES

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:	Morgan Properties, Inc.
Principal Officer:	Dan Morgan
Contact Person:	Dan Morgan, (415) 515-2179, dan@gfcgroup.net
Mailing Address:	150 Gate 5 Road, Suite 100, Sausalito, CA 94965

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, 2024**.

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 6.9 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 Bay Village Homes (Project) is located on Bay Village Avenue in the City of Santa Rosa, Sonoma County (Figure 1). It is bounded to the west by residential development and Bay Meadow Drive, to the east by residential development and Marlow Road, to the north by undeveloped lands and Piner Road, and to the south by Bay Meadow Drive and residential development, and is centered at approximately 38.465781 degrees latitude and -122.753099 degrees longitude on Assessor Parcel Numbers 036-790-062 through 036-790-065 (four parcels total) (Figure 2).

Project Description:

The Project includes the development of approximately 0.22 acres of undeveloped land to construct four single-family homes, including associated driveways and landscaping. Project activities include grubbing and grading of the Project site, complete and partial filling of wetlands, trench digging, and other activities. In 2016, most of the Project site was grubbed and graded, and in 2017 eight homes were constructed and 0.022 acres of an adjacent off-site wetland was temporarily filled.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
Burke’s goldfield (<i>Lasthenia burkei</i>)	Endangered ³

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include grubbing, grading, complete and partial filling of wetlands, trench digging, and other construction activities (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 grubbing, grading, and complete and partial filling of wetlands. The areas where authorized take of the Covered Species is expected to occur include: the wetlands within and adjacent to the 0.22-acre Project site (Project Area).

The Project is expected to cause the permanent loss of 0.049 acres of habitat for the

³See Cal. Code Regs., tit. 14, § 670.2, subd. (a)(2)(L).

Covered Species. 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: reduced seed bank for future regeneration, changes to suitable soil substrates, and hydrologic drainage modifications.

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.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular and pedestrian ingress and egress, staging and parking 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 Mitigated Negative Declaration (SCH No.: 2015052025) adopted by the City of Santa Rosa on June 11, 2015 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Bay Village Homes Biological Opinion (No. 2016-F-0299) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 4. ITP Time Frame Compliance:** 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

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Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. General Provisions:

- 5.1. 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.
- 5.2. Designated Biologist. Permittee shall submit to CDFW the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, and identifying the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat.
- 5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 5.4. Education Program. 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

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

- 5.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure that a copy of the construction monitoring binder is available for review at the Project Area upon request by CDFW.
- 5.6. Delineation of Project Boundaries. Before starting Covered Activities, Permittee shall clearly delineate each area of active construction 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.
- 5.7. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.8. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as coyotes and feral dogs.
- 5.9. Domestic Dogs Prohibited. Permittee shall prohibit domestic dogs from the Project Area during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.
- 5.10. Project Access. Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.11. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally,

Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.10 of this ITP.

- 5.12. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.13. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all fill, wood chips and woody debris, and construction refuse including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Notification, Monitoring, and Reporting Provisions:

- 6.1. Geographic Information Systems Data Files. Before starting Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for permanent habitat impact areas authorized under this ITP for the Covered Species. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.
- 6.2. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.3. 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.
- 6.4. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur unless otherwise approved in writing by CDFW. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records

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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 once per week during periods of inactivity.

- 6.5. Reporting of Habitat Impacts. Permittee shall monitor, calculate, and record in an electronic ledger the total amount of permanent impacts to Covered Species habitat. Upon request, the Permittee shall provide a copy of the ledger to CDFW. If at any time Project impacts may exceed those authorized by this ITP, all Project activities shall immediately cease and CDFW shall be immediately notified. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.6. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall also include an accounting of the number of acres that have permanently disturbed within the Project Area both for the prior month and a total since ITP issuance, and estimate the expected number of acres to be disturbed in the successive month; a summary of all pre-activity surveys conducted; and the number of building pads and other ground disturbing activities authorized under the Covered Activities within the Project Area which occurred during the previous month. 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 and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Melanie Day (Melanie.Day@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.
- 6.7. 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 6.6; (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 permanent disturbance; and (7) information about other Project impacts on the Covered Species.

- 6.8. 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.
- 6.9. 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; (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 accounting of the number of acres subject to permanent disturbance; (7) 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; (8) 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 (9) any other pertinent information.

7. Take Minimization Measures:

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

- 7.1. Dry Season Work Only. The Permittee shall ensure that ground disturbing activities involving construction and heavy equipment use (such as grading and excavating) is limited to the period from June 15 to October 15 (Dry Season).

If more time is needed to complete initial ground disturbing activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of additional biological impacts as a result of

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the work extension. An extension of the period may require an Amendment if addition impacts to Covered Species will occur.

7.2. Dry Weather Work Only. The Permittee or the Designated Biologist shall consult the 72-hour weather forecast from the National Weather Service (NWS) prior to the start of ground disturbing activities. Ground disturbing activities shall not begin unless a no precipitation forecast is obtained covering the entire Project Area and necessary erosion control measures are implemented. The Designated Biologist shall keep precipitation records on-site, and these records shall be subject to CDFW inspection.

- If a 40 percent or greater chance of rain is forecasted, Covered Activities shall cease within 24 hours of forecasted rain, all motorized equipment and fueling materials shall be removed from areas where runoff from these items can be reasonably foreseen to come into contact with Covered Species, and all associated erosion control measures shall be in place at least 12 hours prior to the onset of rain, unless otherwise approved by CDFW in writing. No Covered Activities shall occur during a rain event.
- If Covered Activities are approved by CDFW as described above, the Designated Biologist shall survey the work area before construction begins each day rain is forecast. If runoff is imminent or present, Covered Activities shall cease.
- Forty-eight hours after the rain ceases and once there is no rain in the 24-hour forecast and seasonal wetlands are dry, ground disturbing activities may continue.

7.3. Covered Species Permanent Barrier. Permittee shall submit a Covered Species Permanent Barrier Plan (Plan) to CDFW for approval in writing at least 30 days before starting Covered Activities. The Plan shall include: 1) the barrier material, design, and installation specifications, 2) a detailed description of how the barrier will ensure that Covered Activities and the housing development avoid impacts to adjacent Covered Species habitat, 3) a detailed description of how installation of the barrier will avoid impacts to adjacent Covered Species habitat, and 4) a description of ongoing maintenance and repairs of the barrier in perpetuity, including the funding mechanism. Prior to any ground disturbing Covered Activities and under the direct supervision of the Designated Biologist, Permittee shall install a permanent barrier to prevent impacts to Covered Species habitat adjacent to the Project Area. The barrier shall remain in place and be maintained in perpetuity and will be repaired immediately to ensure that it is functional and without defects. If a temporary barrier is necessary prior to the permanent barrier to facilitate construction activities, a temporary barrier plan including items 1 through 4 and a description of how temporary barrier removal will avoid impacts to the Covered

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Species, shall also be submitted in the manner described above. The Designated Biologist shall check the barrier daily during Covered Activities and before, during, and following storm events, and weekly during periods of inactivity.

- 7.4. Herbicides Prohibited. Permittee shall ensure that herbicides or other poisons used to control plants are not used within the Project Area unless otherwise approved in writing by CDFW.
- 7.5. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. All equipment including excavators, trucks, and hand tools that may have come in contact with invasive plants or the seeds of these plants will be carefully cleaned before arriving on the site and shall also be carefully cleaned before removal from the site to prevent dispersal. Prevention Best Management Practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.
- 7.6. Refueling and Equipment Maintenance. Refueling of construction equipment and vehicles may not occur within 175 feet of any water body or anywhere that spilled fuel could drain to a wetland. Tarps or similar material shall be placed underneath construction equipment and vehicles, when refueling, to capture incidental spillage of fuels. Equipment and vehicles operating in the project area shall be checked and maintained daily to prevent leaks of fuels, lubricants, or other liquids.
- 7.7. Hazardous Materials. Permittee shall prepare and implement a Hazardous Materials Spill Prevention and Response Plan before starting Covered Activities. 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.
- 7.8. Erosion and Dust Control. Permittee shall prepare and implement a detailed Erosion Control Plan (Plan). The Plan shall: 1) include appropriate erosion control measures to be implemented during construction, and 2) limit ground disturbance activities to dry weather to avoid increased surface water runoff and erosion onsite, and sedimentation in sensitive habitats located offsite. Erosion control elements shall be checked and maintained daily to ensure proper function and shall not contain

monofilament netting. Any straw wattles are used shall be made from biodegradable materials only. Runoff from dust control shall be retained in the construction site and prevented from flowing into adjacent habitat for the Covered Species by installing appropriate erosion control devices, such as silt fences. Dust control water trucks shall be used throughout construction. The Designated Biologist shall check weekly the effectiveness of dust control measures and direct implementation of further measures if necessary to prevent damage to Covered Species. Excessive dust control watering shall not occur. Puddling or sheeting flow of dust control water shall be prevented.

- 7.9. Spoil Pile Stabilization. The Permittee shall stabilize active and non-active spoil piles located within the Project Area with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 7.2) or at any time when spoil material could enter Covered Species habitat.
- 7.10. Designated Areas for Stockpiling Materials. Permittee shall ensure that all construction materials placed in the Project Area are not placed in areas where impacts to Covered Species or their habitat may occur.
- 7.11. Groundwater Encountered. Nuisance groundwater encountered during excavation shall be discharged at a location where it will infiltrate into the soil, resulting in no overland flow. Discharged water shall not be allowed to flow into wetlands. Permittee shall ensure that best management practices are used to control runoff water quality.

8. Habitat Management Land Acquisition:

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

To meet this requirement, the Permittee shall either purchase 0.23 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 0.23 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition

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of Approval 8.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

- 8.1. Cost Estimates. CDFW has estimated the cost of the purchase of credits at a conservation or mitigation bank identified in Condition of Approval 7.2 OR acquisition, protection, and perpetual management of the HM lands identified in Condition of Approval 8.3 at \$1,000,000 per acre; therefore, for 0.23 acres the estimated cost is **\$230,000**.
- 8.2. Covered Species Credits. Permittee shall: 1) purchase 0.23 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank, 2) provide copies of executed Bill(s) of Sale and Payment Receipt(s) to CDFW, and 3) Obtain CDFW's written acceptance of the credits before Covered Activities begin. Permittee shall request CDFW's acceptance of the credits at least 30 days before Covered Activities begin.

OR:

- 8.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:
 - 8.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. 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);

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- 8.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 8.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 8.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. 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;
- 8.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a development plan, interim management plan, and 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 restoration or enhancement, if applicable; and (7) installing signage;
- 8.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species

management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 8.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, 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 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, 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.

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

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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).;

- 8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.
- 8.4.2.1. Capitalization Rate and Fees. 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.
- 8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
- 8.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
- 8.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 8.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 8.4.3. Transfer Long-term Endowment Funds. 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.

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

9. Performance Security:

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

- 9.1. Security Amount. The Security shall be in the amount of **\$230,000**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.
- 9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release. The Security (or any portion of the Security then remaining) shall

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be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

- Receipt of executed copies of Bill(s) of Sale; and
- Receipt of executed copies of Payment Receipt(s).

OR

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

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

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order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

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

Notices:

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

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or 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 (2081-2014-066-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Gregg Erickson, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
AskBDR@wildlife.ca.gov

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program

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Post Office Box 944209
Sacramento, CA 94244-2090
CESA@wildlife.ca.gov

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

Melanie Day, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone: (707) 428-2092
Email: Melanie.Day@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, City of Santa Rosa. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Bay Village Homes Initial Study/Mitigated Negative Declaration, (SCH No.: 2015052025) dated April 13, 2015 that the City of Santa Rosa adopted for the Bay Village Homes Project on June 11, 2015. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration 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 and Game Code, § 2081, subs.

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(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, Bay Village Homes Initial Study/Mitigated Negative Declaration, 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 0.23 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) 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
- (7) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and

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conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Project Location Map
FIGURE 2	Project Area Map
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 7/30/2020.

DocuSigned by:

Gregg Erickson

DE74D4C03C004EA...

Gregg Erickson, Regional Manager
Bay Delta Region

ACKNOWLEDGMENT

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

DocuSigned by:

Dan Morgan

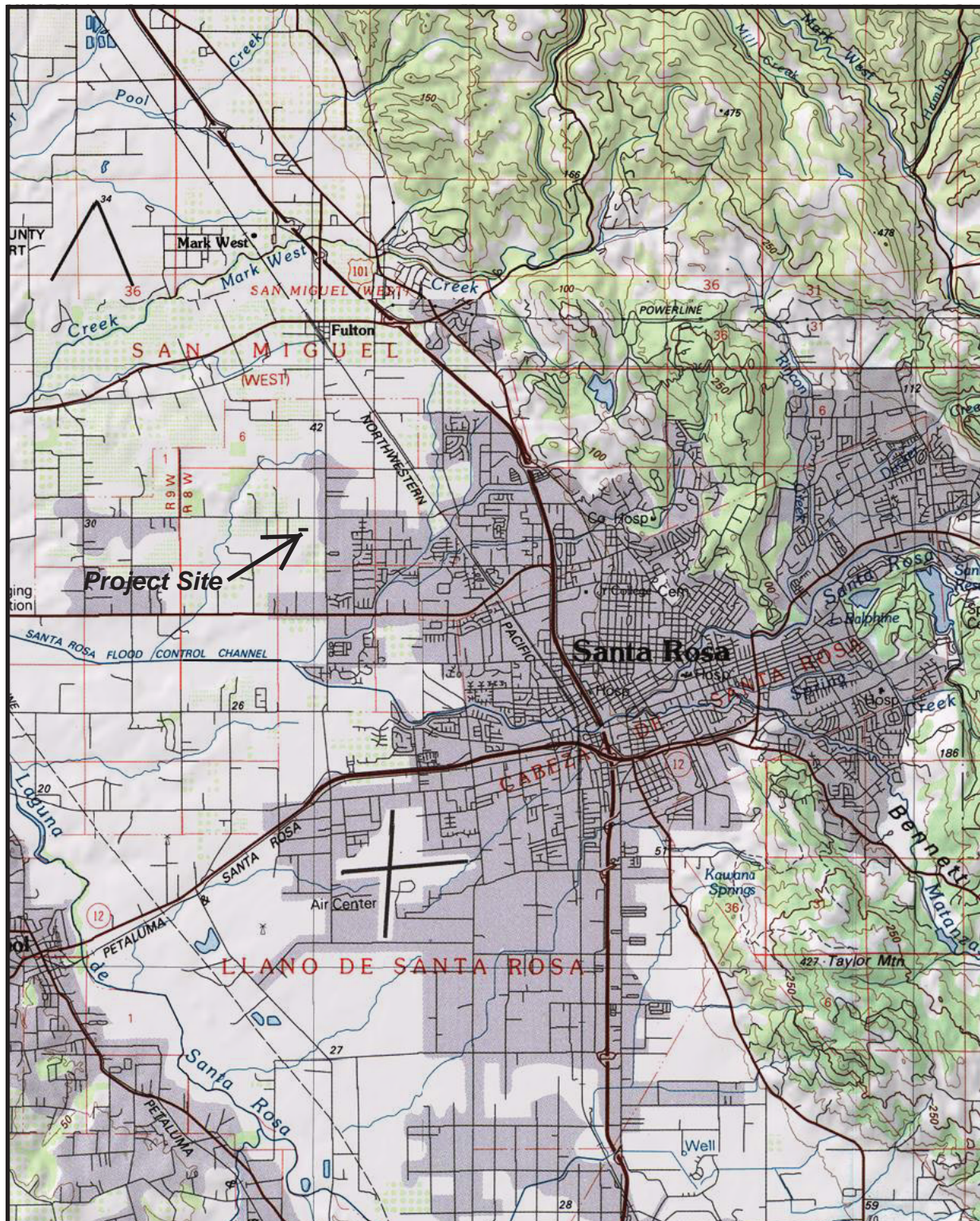
By: _____

Date: 1/15/2021

Printed Name: Dan Morgan

Title: General patner

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Applicant:
 Mr. Dan Morgan
 Morgan Properties, Inc.
 2658 Bridgeway Avenue, Suite 100
 Sausalito, CA 94965
 (415) 515-2179

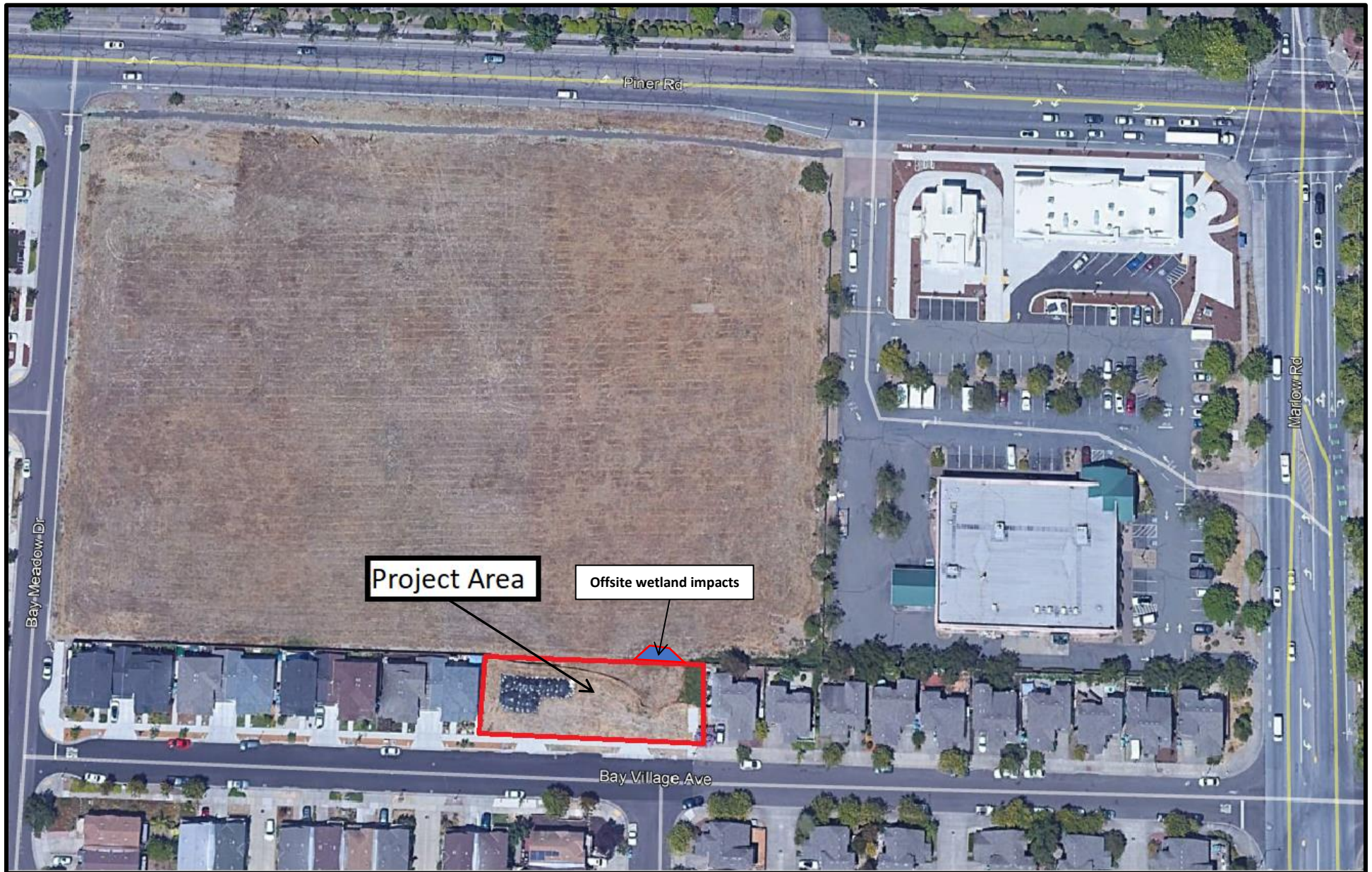
Site:
 A.P. 036-790-052, Bay Village Project Site
 Santa Rosa, California



Nominal Scale: 1:10,500

Figure 1.
 Regional Location Map

Figure 2. Project Area Map



Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT****INCIDENTAL TAKE PERMIT NO. 2081-2014-066-03****PERMITTEE: Morgan Properties, Inc.****PROJECT: Bay Village Homes****PURPOSE OF THE MMRP**

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
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 this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist</u> . Permittee shall submit to CDFW the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, and identifying the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat.	ITP Condition # 5.2	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 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.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	<u>Delineation of Project Boundaries</u> . Before starting Covered Activities, Permittee shall clearly delineate each area of active construction 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 # 5.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as coyotes and feral dogs.	ITP Condition # 5.8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	<u>Geographic Information Systems Data Files.</u> Before starting Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for permanent habitat impact areas authorized under this ITP for the Covered Species. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
8	<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 # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<u>Covered Species Permanent Barrier.</u> Permittee shall submit a Covered Species Permanent Barrier Plan (Plan) to CDFW for approval in writing at least 30 days before starting Covered Activities. The Plan shall include: 1) the barrier material, design, and installation specifications, 2) a detailed description of how the barrier will ensure that Covered Activities and the housing development avoid impacts to adjacent Covered Species habitat, 3) a detailed description of how installation of the barrier will avoid impacts to adjacent Covered Species habitat, and 4) a description of ongoing maintenance and repairs of the barrier in perpetuity, including the funding mechanism. Prior to any ground disturbing Covered Activities and under the direct supervision of the Designated Biologist, Permittee shall install a permanent barrier to prevent impacts to Covered Species habitat adjacent to the Project Area. The barrier shall remain in place and be maintained in perpetuity and will be repaired immediately to ensure that it is functional and without defects. If a temporary barrier is necessary prior to the permanent barrier to facilitate construction activities, a temporary barrier plan including items 1 through 4 and a description of how temporary barrier removal will avoid impacts to the Covered Species, shall also be submitted in the manner described above. The Designated Biologist shall check the barrier daily during Covered Activities and before, during, and following storm events, and weekly during periods of inactivity.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
10	<u>Hazardous Materials.</u> Permittee shall prepare and implement a Hazardous Materials Spill Prevention and Response Plan before starting Covered Activities. 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 # 7.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<u>Erosion and Dust Control.</u> Permittee shall prepare and implement a detailed Erosion Control Plan (Plan). The Plan shall: 1) include appropriate erosion control measures to be implemented during construction, and 2) limit ground disturbance activities to dry weather to avoid increased surface water runoff and erosion onsite, and sedimentation in sensitive habitats located offsite. Erosion control elements shall be checked and maintained daily to ensure proper function and shall not contain monofilament netting. Any straw wattles are used shall be made from biodegradable materials only. Runoff from dust control shall be retained in the construction site and prevented from flowing into adjacent habitat for the Covered Species by installing appropriate erosion control devices, such as silt fences. Dust control water trucks shall be used throughout construction. The Designated Biologist shall check weekly the effectiveness of dust control measures and direct implementation of further measures if necessary to prevent damage to Covered Species. Excessive dust control watering shall not occur. Puddling or sheeting flow of dust control water shall be prevented.	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
12	<u>Habitat Management Land Acquisition:</u> CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. To meet this requirement, the Permittee shall either purchase 0.23 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of 0.23 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
13	<u>Cost Estimates.</u> CDFW has estimated the cost of the purchase of credits at a conservation or mitigation bank identified in Condition of Approval 7.2 OR acquisition, protection, and perpetual management of the HM lands identified in Condition of Approval 8.3 at \$1,000,000 per acre; therefore, for 0.23 acres the estimated cost is \$230,000 .	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
14	<u>Covered Species Credits.</u> Permittee shall: 1) purchase 0.23 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank, 2) provide copies of executed Bill(s) of Sale and Payment Receipt(s) to CDFW, and 3) Obtain CDFW's written acceptance of the credits before Covered Activities begin. Permittee shall request CDFW's acceptance of the credits at least 30 days before Covered Activities begin. OR:	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<u>Habitat Acquisition and Protection</u> . To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
16	<u>Fee Title/Conservation Easement</u> . 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 # 8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
17	<u>HM Lands Approval</u> . Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition # 8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	<u>HM Lands Documentation</u> . Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition # 8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
19	<u>Land Manager</u> . Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;	ITP Condition # 8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	<u>Start-up Activities</u> . Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a development plan, interim management plan, and 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 restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition # 8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	<u>Interim Management (Initial and Capital)</u> . Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	<u>Endowment Fund</u> . If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, 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 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. After the interim management period, 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.	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
23	<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	ITP Condition # 8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;</p> <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> <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> <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> <p><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.</p> <p><u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p><u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p>	through 8.4.2.2.3	issuance of the ITP if Security is provided)		
24	<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 this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p>	ITP Condition # 8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
DURING CONSTRUCTION					
26	<u>Designated Biologist Authority.</u> To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 5.3	Entire Project	Permittee	
27	<u>Construction Monitoring Binder.</u> The Designated Biologist shall maintain a construction monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure that a copy of the construction monitoring binder is available for review at the Project Area upon request by CDFW.	ITP Condition # 5.5	Entire Project	Permittee	
28	<u>Domestic Dogs Prohibited.</u> Permittee shall prohibit domestic dogs from the Project Area during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.	ITP Condition # 5.9	Entire Project	Permittee	
29	<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.10	Entire Project	Permittee	
30	<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 Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.10 of this ITP.	ITP Condition # 5.11	Entire Project	Permittee	
31	<u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 5.12	Entire Project	Permittee	
32	<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 this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 6.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	<u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily when Covered Activities occur unless otherwise approved in writing by CDFW. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity.	ITP Condition # 6.4	Entire Project	Permittee	
34	<u>Reporting of Habitat Impacts.</u> Permittee shall monitor, calculate, and record in an electronic ledger the total amount of permanent impacts to Covered Species habitat. Upon request, the Permittee shall provide a copy of the ledger to CDFW. If at any time Project impacts may exceed those authorized by this ITP, all Project activities shall immediately cease and CDFW shall be immediately notified. 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.	ITP Condition # 6.5	Entire Project	Permittee	
35	<u>Monthly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall also include an accounting of the number of acres that have permanently disturbed within the Project Area both for the prior month and a total since ITP issuance, and estimate the expected number of acres to be disturbed in the successive month; a summary of all pre-activity surveys conducted; and the number of building pads and other ground disturbing activities authorized under the Covered Activities within the Project Area which occurred during the previous month. 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 and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Melanie Day (Melanie.Day@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 # 6.6	Monthly Until Project Construction Completed	Permittee	
36	<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 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 6.6; (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 permanent disturbance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.7	Annually Until Project Construction Completed	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	<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 # 6.8	Entire Project	Permittee	
38	<u>Dry Season Work Only</u> . The Permittee shall ensure that ground disturbing activities involving construction and heavy equipment use (such as grading and excavating) is limited to the period from June 15 to October 15 (Dry Season). If more time is needed to complete initial ground disturbing activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of additional biological impacts as a result of the work extension. An extension of the period may require an Amendment if addition impacts to Covered Species will occur.	ITP Condition # 7.1	Entire Project	Permittee	
39	<u>Dry Weather Work Only</u> . The Permittee or the Designated Biologist shall consult the 72-hour weather forecast from the National Weather Service (NWS) prior to the start of ground disturbing activities. Ground disturbing activities shall not begin unless a no precipitation forecast is obtained covering the entire Project Area and necessary erosion control measures are implemented. The Designated Biologist shall keep precipitation records on-site, and these records shall be subject to CDFW inspection. <ul style="list-style-type: none"> • If a 40 percent or greater chance of rain is forecasted, Covered Activities shall cease within 24 hours of forecasted rain, all motorized equipment and fueling materials shall be removed from areas where runoff from these items can be reasonably foreseen to come into contact with Covered Species, and all associated erosion control measures shall be in place at least 12 hours prior to the onset of rain, unless otherwise approved by CDFW in writing. No Covered Activities shall occur during a rain event. • If Covered Activities are approved by CDFW as described above, the Designated Biologist shall survey the work area before construction begins each day rain is forecast. If runoff is imminent or present, Covered Activities shall cease. • Forty-eight hours after the rain ceases and once there is no rain in the 24-hour forecast and seasonal wetlands are dry, ground disturbing activities may continue. 	ITP Condition # 7.2	Entire Project	Permittee	
40	<u>Herbicides Prohibited</u> . Permittee shall ensure that herbicides or other poisons used to control plants are not used within the Project Area unless otherwise approved in writing by CDFW	ITP Condition # 7.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	<u>Prevention of Spread of Invasive Species.</u> Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. All equipment including excavators, trucks, and hand tools that may have come in contact with invasive plants or the seeds of these plants will be carefully cleaned before arriving on the site and shall also be carefully cleaned before removal from the site to prevent dispersal. Prevention Best Management Practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: http://www.cal-ipc.org/ip/prevention/index.php and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: http://www.protectyourwaters.net/ .	ITP Condition # 7.5	Entire Project	Permittee	
42	<u>Refueling and Equipment Maintenance.</u> Refueling of construction equipment and vehicles may not occur within 175 feet of any water body or anywhere that spilled fuel could drain to a wetland. Tarps or similar material shall be placed underneath construction equipment and vehicles, when refueling, to capture incidental spillage of fuels. Equipment and vehicles operating in the project area shall be checked and maintained daily to prevent leaks of fuels, lubricants, or other liquids.	ITP Condition # 7.6	Entire Project	Permittee	
43	<u>Spoil Pile Stabilization.</u> The Permittee shall stabilize active and non-active spoil piles located within the Project Area with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 7.2) or at any time when spoil material could enter Covered Species habitat.	ITP Condition # 7.9	Entire Project	Permittee	
44	<u>Designated Areas for Stockpiling Materials.</u> Permittee shall ensure that all construction materials placed in the Project Area are not placed in areas where impacts to Covered Species or their habitat may occur.	ITP Condition # 7.10	Entire Project	Permittee	
45	<u>Groundwater Encountered.</u> Nuisance groundwater encountered during excavation shall be discharged at a location where it will infiltrate into the soil, resulting in no overland flow. Discharged water shall not be allowed to flow into wetlands. Permittee shall ensure that best management practices are used to control runoff water quality.	ITP Condition # 7.11	Entire Project	Permittee	
POST-CONSTRUCTION					
46	<u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all fill, wood chips and woody debris, and construction refuse including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.13	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	<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; (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 accounting of the number of acres subject to permanent disturbance; (7) 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; (8) 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 (9) any other pertinent information.	ITP Condition # 6.9	Post-construction	Permittee	

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

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

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

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

Documents in this package include:

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

Included are additional documents:

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



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

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

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

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
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_____	_____	_____	_____	_____
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Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ____

By: _____
Regional Manager's Signature

DATE: _____

REJECTED ____

Region: _____

Explanation: _____

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

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

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

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

Dear Sirs:

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

6. The Certificate shall be completed and signed by an “Authorized Representative” of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation/Reduction, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An “Authorized Representative” shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW’s Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract Coordinator; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.

17. This Credit shall, if not canceled, expire on [**expiration date**], or any extended expiration date.

18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.

19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____

Name: _____

Title: _____

Telephone: _____

ATTACHMENT A

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [**number issued by financial institution**]
CERTIFICATE FOR [**insert either: "CANCELLATION" or "REDUCTION"**]

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

[**Insert one of the following statements:** "Therefore, CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of [**month**], [**year**]." **or** "Therefore, CDFW has executed and delivered this Certificate for Reduction as of the ____ day of [**month**], [**year**]."]

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

State of California - Department of Fish and Wildlife

MITIGATION PAYMENT TRANSMITTAL FORM

DFW 1057 (NEW 07/28/17)

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

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

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

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

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

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