



**California Department of Fish and Wildlife
Inland Deserts Region
3602 INLAND EMPIRE BOULEVARD, SUITE C-220
ONTARIO, CA 91764**

California Endangered Species Act
Incidental Take Permit No. 2081-2023-035-06 (Amendment 1)

SHADY VIEW PROJECT

I. 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 However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	TH Shady View LLC
Principal Officer:	Joe Martin, Senior Vice President – Land Division
Contact Person:	Wade Caffrey, (949) 234-6076
Mailing Address:	450 Newport Center Drive, Suite 300 Newport Beach, CA 92660

II. Amended ITP³ Background

On November 27, 2023, the Permittee submitted a CESA ITP application to 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. The Permittee sought take coverage authorization for CESA listed species associated with and incidental to the Shady View Project in San Bernardino County, California (Project).

On December 19, 2023, CDFW issued ITP No. 2081-2023-035-06 to the Permittee authorizing take of Crotch’s bumble bee (*Bombus crotchii*, the Covered Species) associated with and incidental to the Project. The Project as described in the original ITP issued by CDFW included the development of 85.73 acres of undeveloped land into a residential development. In issuing the original ITP, CDFW found, among other things, that Permittee’s compliance with the Conditions of Approval of the 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.

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

would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

On June 11, 2025, the Permittee submitted a request for an amendment to CESA ITP No. 2081-2023-035-06. Since the issuance of the original ITP, the Permittee has not requested any changes to the Project description, Project footprint, or impact to Covered Species habitat. The Permittee requested amendments to the timing of the funding and permanent preservation and management of the Habitat Mitigation Lands.

CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

III. Effective Date and Expiration Date of this Amended ITP:

The original ITP was effective as of the date signed by CDFW. The original ITP's effective date was June 11, 2024. This remains the effective date for the original take authorization. The Amended ITP shall be executed in the same manner and shall become effective as of the date signed by CDFW below. This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **June 1, 2029**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.7 of this ITP.

IV. Project Location:

The Shady View Project (Project) is located on 130.66 acres south of Shady View Drive and Wrangler Road within the City of Chino Hills, County of San Bernardino (see Figure 1: Map of Project). The Project is located approximately 2.5 miles north of the intersection between State Route 71 (SR-71) and State Route 91 (SR-91) at approximately 33.920992, -117.659548. The Project site is bounded by SR-71 to the east and Wrangler Road to the north.

Topographically, the site consists of a large hillside in the southwest portion of the site, and a series of low rolling canyons and ridges in the northeast portion of the site. Vegetation on the Project site consists primarily of disturbed areas, non-native species, burned habitat, and California sagebrush scrub. In late October and early November 2020, the Blue Ridge wildfire burned in the hills to the west and south of the Project site. In the western portion of the site, a backfire was initiated by local fire officials as a containment method for the wildfire on the adjacent lands. The remainder of the

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Project site that did not burn consists of native habitat, including California sagebrush scrub; coast live oak woodland; and mule fat thickets, in addition to existing developed areas and disturbed habitat including pepper tree grove and upland mustards. Historically, the area has been subject to cattle grazing since the late 1700s.

V. Project Description:

The Project includes the development of 85.73 acres of undeveloped land into a residential development. The Project includes the construction of 159 single-family homes on 32.29 acres, a community recreation center on 0.94 acres, private interior streets on 14.46 acres, debris basins on 1.02 acres, utility infrastructures, and other associated improvements. The Project also includes a 15.15-acre fuel modification zone, including a wet zone, dry zone, and special maintenance area, around the residential development. Additional elements of the Project include 10.79-acres of graded and landscaped slopes, 1.89-acre oil tank relocation site, 8.08-acres of open space, 0.26-acre easement access, and 0.85-acre of off-site improvements adjacent to the Project boundary that will be impacted to accommodate road improvements and cleanup from past oil production-related contamination (see Figure 2: Project Development Plan). Of the 130.66-acre site, 44.93 acres will not be developed or impacted by Covered Activities and have been proposed to be on-site mitigation, subject to review and approval by CDFW. Covered Activities include grubbing and grading, trench digging, pile driving, road construction, tree removal, horizontal building foundation, vertical building construction, paving and concrete work, and landscape installation.

VI. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

<u>Name</u>	<u>CESA Status⁴</u>
1. Crotch’s bumble bee (<i>Bombus crotchii</i>)	Candidate ⁵

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

VII. 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 initial site preparation; heavy equipment operation; clearing and site grading; excavation, trenching, and backfilling; installation and/or removal of structures and equipment; vehicle and foot traffic; access road construction, repair and resurfacing; horizontal building foundation and vertical building construction; handling of stockpiles and stored materials; soil compaction; vegetation clearing and maintenance (grading, mowing, and grubbing);

⁴ Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁵The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

paving and concrete work and landscape installation; as well as other development activities related to the Project (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as vehicle/equipment strikes and/or materials placement (crushing); burrow collapse associated with earthwork, vegetation removal and/or vehicle passage (entombment, crushing, or suffocation); equipment laydown, trenching, other excavations, grading, horizontal directional drilling, pile driving, laying of foundations, planting (direct contact with sharp objects and/or blunt-force trauma); placement of spoils and/or fill materials (entombment, crushing, and/or suffocation); and entanglement in erosion control materials (strangulation, immobility). Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from salvage, collection for identification, and/or relocation out of harm’s way as required by this ITP. Covered Activities could also cause loss of individual Covered Species during habitat enhancement, maintenance, and monitoring at the proposed on-site mitigation site. The areas where authorized take of the Covered Species is expected to occur include: the entire Project site and the proposed on-site mitigation area subject to review and approval by CDFW (Project Area).

The Project is expected to cause the permanent loss of 26.82 acres of coastal sage scrub habitat and 58.91 acres of disturbed habitat dominated by invasive species including black mustard (*Brassica nigra*) for the 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: decreased food supply through changes in composition of floral nectar resources (starvation); increased interaction with non-native honey bees (competition for food and space, introduction of disease, introduction of parasites). Lastly, a fire sparking as a result of battery or other equipment presence could result in burning or loss of habitat (change in vegetation composition) and food supply (change in resources). Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

VIII. Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for salvage and capture/release for identification of Covered Species as authorized by this ITP.

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IX. Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, and 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 any applicable mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2021035576) certified by the City of Chino Hills on September 9, 2022, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and for which the City of Chino Hills prepared an addendum dated August 2023 related to the Covered Species.
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. EPIMS-SBR-31909-R6) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 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 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(s) and/or Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully

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mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

- 5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 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 prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. 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. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 5.5. Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format 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

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completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.

- 5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic competitors.
- 5.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species in potential Covered Species' habitat such as riprap, monofilament netting (erosion control matting), or similar material.
- 5.9. Pesticide Use. Permittee shall not use pesticides, including herbicides, insecticides, or rodenticides within the Project Area without prior consultation with and written approval from CDFW. Through this consultation, CDFW may approve limited use of herbicides through targeted spray (e.g., backpack sprayer) at a buffer from Covered Species habitat. If approved, all pesticide application should be conducted by a Licensed and Certified Pesticide Applicator and used as directed by the manufacturer. Use of neonicotinoid pesticides will not be approved by CDFW within the Project Area.
 - 5.9.1. Permittee shall follow the best management practices described by Xerces Society's [Guidance to Protect Habitat from Pesticide Contamination](#), the California Department of Pesticide Regulation's [California's Managed Pollinator Protection Plan –MP3 \(2018\)](#), and the University of California's Division of Agriculture and Natural Resources Statewide Integrated Pest Management Program's [Best management practices to protect bees from pesticides](#). Permittee shall avoid using pesticides marked with the US Environmental Protection Agency's bee hazard icon. Permittee shall preferentially use chemicals that are rated green/III in [UC IPM Bee Precaution Database](#) and consider using the least toxic products at the least concentrated application possible. Additionally, Permittee shall avoid mixtures with fungicides and adjuvants, like those that contain alkylphenol ethoxylates, because these have been shown to increase the risk of pesticide toxicity to bees. Permittee shall avoid the usage of soil fumigants, which penetrate the soil and can poison ground nesting bees. When pesticides are needed, Permittee shall use an IPM framework that incorporates multiple tools to increase the efficacy of the

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treatments, decrease the likelihood for pesticide resistance, the amount of pesticide needed in the long-term, and thereby reduce the likelihood of exposure and adverse impacts to non-target species from the treatments.

- 5.9.2. Permittee shall avoid spraying herbicides on plants that are in bloom to minimize direct or indirect contact with the Covered Species. These plants may serve as obligate resources that an individual or colony is reliant upon. Instead, the Permittee shall target other vegetive phases when the chemicals are most effective as recommended by the manufacturer. Pesticides shall be applied directly to the targeted pest or site, and always according to the label. To avoid spray drift onto flowering resources and nests, pesticide application shall be completed when the Cover Species is not active.⁶ Appropriate weather conditions and other application best management practices, as well as label precautions, shall always be followed.
- 5.10. Fertilizer Use. Permittee shall not use fertilizers (or any similar soil additives, hereby referred to as “fertilizer”) within the Project Area, unless Permittee requests and receives a written approval from CDFW. To request written approval for fertilizer application, no less than 60 days prior to the proposed application, Permittee shall submit to CDFW for review and approval a Fertilizer Application Plan. The Fertilizer Application Plan will detail the type of fertilizer proposed to be used, method of application, amount of fertilizer to be used, spatial extent and timing of proposed application, impacts assessment of application specific to the Covered Species, measures to reduce impacts to Covered Species, and justification for need of fertilizer application.
- 5.11. Delineation of Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 5.12. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area that will not be impacted with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species’ habitat.
- 5.13. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species’ habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle

⁶ Hatfield, R., S. Jepsen, E. Mader, S. H. Black, and M. Shepherd. 2012. *Conserving Bumble Bees. Guidelines for Creating and Managing Habitat for America’s Declining Pollinators*. 32 pp. Portland, OR: The Xerces Society for Invertebrate Conservation.

traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, 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.

- 5.14. 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, excluding the proposed on-site mitigation 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 5.12 of this ITP.
- 5.15. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.16. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of Conditions of Approval set forth in this ITP.
- 5.17. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 5.18. Wildfire Prevention. Basic fire suppression supplies shall be kept on site at all times. Hand removal of vegetation, mowing, and/or weed whacking are the authorized methods for vegetation removal. Disking and/or tilling shall not be permitted for fire prevention without prior written permission from CDFW, which may require an amendment to this ITP. See Condition of Approval 7.2.
- 5.19. Prevention of Spread of Invasive Species. Permittee shall conduct Covered Activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (for example, algae, fungi, parasites, bacteria), from one Project Area and/or waterbody to another. Prevention best management practices (BMPs)

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and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php/>. Permittee shall incorporate BMPs to minimize risk of introduction and/or spread of *Phythopthora* spp. within the Project Area.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if 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 follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 6.3. Daily Compliance Monitoring. The Designated Biologist shall be on-site daily during any vegetation removal and ground-disturbing Covered Activities. 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, weather conditions, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.
- 6.4. Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading have been completed, compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any Conditions of Approval of this ITP.
- 6.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.2, 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 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 Marina Barton (Marina.Barton@wildlife.ca.gov) and Headquarters CESA

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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.

- 6.6. 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 6.5; (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, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall submit a notification of observation (including species name, date of observation and GPS coordinates) by email to the CDFW Regional Representative (Marina.Barton@wildlife.ca.gov) and the Wildlife Diversity Program (wildlifemgt@wildlife.ca.gov) within 24 hours of observation.
- 6.8. Final Mitigation Report. No later than 45 days after completion of all Conditions of Approval, 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 Conditions of Approval was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how Conditions of Approval might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

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6.9. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to the CDFW Regional Representative via email at Marina.Barton@wildlife.ca.gov and by calling the Regional Office at (909) 484-0523. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

6.9.1. Crotch's Bumble Bee Salvage. If a Crotch's bumble bee is accidentally killed during survey efforts, stop all work and immediately contact CDFW for guidance. The carcass shall be salvaged, photographed, and placed in a labeled, clean plastic, resealable bag or vial and placed in a freezer. The label shall include a unique identifier (collection number), species name, time and date of collection, collection location, GPS location (including datum and horizontal error in feet), circumstances surrounding death (e.g. freezer may have been too cold; hot day and extreme shifts in temperature from ambient air to cooler may have contributed), collector name and contact information (phone number or email), and ITP tracking number. If deemed necessary by CDFW, the carcass shall be delivered (on dry ice if possible) to the following address and reported with photographs via email to the CDFW Regional Representative at the time of collection and shipping:

CDFW Wildlife Genetics Research Unit (Wildlife Health Lab)
Attention: Michael Buchalski
1415 North Market Blvd., Suite 9
Sacramento, CA 95834

6.10. Additional Impacts to Habitat. No habitat impacts beyond the permanent loss of 85.73-acres of habitat and, if approved by CDFW, the proposed restoration of 44.93-acres of habitat for the Covered Species shall occur due to Covered Activities unless this ITP is amended by CDFW prior to additional impacts.

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:

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7.1. Seasonal Restriction. If feasible, Covered Activities shall avoid vegetation and ground disturbing impacts to Covered Species and Covered Species habitat during the Colony Active Period (approximately February 1 through October 31) each year until the expiration of this ITP. Any work within the Colony Active Period shall be subject to approval by CDFW as described in Condition of Approval 7.3. If feasible, native or non-native flowering vegetation removal shall occur prior to bloom and before the Colony Active Period. If Covered Activities cannot be avoided during this time and vegetation needs to be removed during the bloom period for those species, Permittee shall remove flowering vegetation in a patched manner leaving areas of floral resources as refugia for foraging Covered Species or wait until bloom has ceased. During the bloom period and Colony Active Period, removal of non-native plants should be prioritized over native plants.

Permittee shall avoid conducting Covered Activities involving vegetation and ground disturbance in Covered Species habitat during the Queen/Gyne Flight Season, when queens emerge in the spring searching for nest sites and during the fall flight period when gynes mate and search for overwintering habitat.⁷ These time periods shift each year due to climatic conditions (drought, temperature, and precipitation). To determine these time periods each year, the Designated Biologist(s) shall be onsite and conduct Covered Species Pre-Construction Surveys as described in Condition of Approval 7.4 prior to ground disturbing activities in the late fall (after October 31) to avoid the Gyne Flight Season and again in late January to avoid Queens emerging in the spring.

7.2. Vegetation Management. Disturbance or removal of vegetation shall be kept to the minimum necessary to complete Covered Activities. Vegetation marked for protection may only be trimmed with hand tools to the extent necessary to gain access to work sites. Permittee shall set mower blade heights no lower than 4 inches, unless otherwise approved by CDFW in writing. Permittee shall ensure that pesticide use only occurs when Covered Species are dormant or when flowers are no longer in bloom. See Condition of Approval 5.9.

7.3. Covered Species Pre-Construction Survey Plan. If Covered Activities are proposed to occur during the Colony Active Period, Permittee shall develop a Pre-Construction Survey Plan for the Covered Species and submit it to CDFW for approval no less than 60 days prior to the initiation of ground disturbing activities. The Pre-Construction Survey Plan shall include the number of surveys that will be conducted, when the surveys are planned to take place (i.e., season and how much time between surveys), what type of habitat will be surveyed for (i.e., foraging, nesting, and/or overwintering), and survey method(s). The Pre-Construction Survey Plan shall follow the survey guidelines outlined in CDFW’s [Survey Considerations for](#)

⁷ U.S. Fish and Wildlife Service (2018). *Conservation Management Guidelines for the Rusty Patched Bumble Bee (Bombus affinis)*.

[California Endangered Species Act \(CESA\) Candidate Bumble Bee Species \(June 6, 2023\)](#). Pre-construction surveys must be completed no more than 3 weeks prior to the initiation of ground disturbing activities. The Pre-Construction Survey Plan shall provide justification for timing and method of survey design (e.g., elevation, climatic conditions, previous year's precipitation, average ambient temperature, species Colony Active Period and Queen/Gyne Flight Season, etc.). It shall also include the capture and identification protocol(s) for Colony Active Period surveys. If photographs will be used as vouchers, the Pre-Construction Survey Plan must identify the person(s) who will provide positive identification, and the surveyors qualifications for doing capture/release survey including a Memorandum of Understanding (MOU) issued by CDFW pursuant to Fish and Game Code subsection 2081(a).

- 7.4. Covered Species Pre-Construction Survey. The Designated Biologist shall perform pre-construction survey(s) as described in the Pre-Construction Survey Plan (see Condition of Approval 7.3). The survey(s) shall include a description of vegetation communities and floral resources. The Permittee shall provide Pre-Construction Survey notes and observations to CDFW prior to commencing Covered Activities. Locations of positive sightings shall not be made public by the Permittee.
- 7.5. Covered Species Checks. In undisturbed areas planned for Covered Activities, the Designated Biologist shall perform Covered Species pre-construction surveys as described in the Pre-Construction Survey Plan (see Condition of Approval 7.3). In all other areas where Covered Activities have already begun, the Designated Biologist or Biological Monitor on-site will conduct daily visual sweeps of the Project Area for Covered Species flight activity at the start of the daily work window. Because the Covered Species is unlikely to be active before the start of daily Covered Activities that initiate prior to 8:00 AM, the Designated Biologist or Biological monitor will intermittently repeat these visual sweeps throughout the daily work window.
- 7.6. Covered Species Observation (Suspected or Confirmed). If a suspected or confirmed Covered Species is detected in the Project Area, the Designated Representative or Designated Biologist shall immediately contact the CDFW Regional Representative by phone (909-484-0523) or email (Marina.Barton@wildlife.ca.gov). After any suspected or confirmed identification of the Covered Species in the Project Area, the Designated Biologist shall be present on-site for daily monitoring of Covered Activities until otherwise communicated by CDFW.

If a suspected or confirmed Covered Species individual is detected within the Project Area, every effort shall be made by the Designated Biologist to find the active nest. Covered Species nest surveys shall include the Project Area and a 50-foot buffer beyond the Project Area. If a Covered Species nest is found in the surveyed area, the Designated Biologist shall delineate a 50-foot no-activity buffer around the nest until the nest senesces (becomes

inactive and is no longer in use, as determined by the Designated Biologist in consultation with the CDFW Regional Representative), or the Covered Activity in the Project Area is complete, whichever is first. The nest location shall be recorded with a GPS (including datum and horizontal accuracy in feet) and the Designated Biologist shall report the nest location to the CDFW Regional Representative within 24 hours of finding the nest.

- 7.7. Onsite Landscaped Slopes. Within 30 days of initiating Covered Activities, Permittee shall submit to CDFW for approval all landscaping plans for the identified Onsite Landscaped Slopes (see Figure 2). The Onsite Landscaped Slopes shall be planted with native species and incorporate Covered Species preferred host plants as appropriate to the Project site. Permittee shall ensure the area is planted with a diversity of flowering plant species (herbaceous, shrubs, and trees), ideally incorporating a minimum of three flowering species per season (spring, summer, and fall) with overlapping bloom periods. For resources on California native plant bloom periods visit [Calflora](#). Although bumble bees are generalist foragers, they do have some preference for perennial plant species with flowers that are purple, blue, or yellow. Bumble bees are less likely to forage on red flowers because they are essentially blind to red⁸. Landscaping should also include flowers with a diversity of corolla tube depths to support bumble bees with varying tongue lengths⁹.
- 7.8. Onsite Open Space Area. Any activity or impact within the area identified by the Permittee as Open Space (see Figure 2) shall be submitted to CDFW for approval and may require amendment of this ITP to address additional take, not authorized in this ITP.
- 7.9. Lighting Minimization – Construction. If feasible, Project Activities will be restricted to daytime hours. If nighttime construction is needed, Permittee shall implement the following measures within 500 feet of Covered Species habitat:
- 7.9.1. All construction-related lighting shall not have significant illumination pass beyond the immediate work area. Shielding techniques may include, but should not be limited to, the use of fence slats, netting, mesh, or tarps; and
- 7.9.2. All construction lighting used shall be yellow or orange lighting.
- 7.10. Lighting Minimization – Post Project. Permittee shall not install lighting (e.g., street lighting, trail lighting) that produces illuminance (lux) outside of the Project footprint, onto adjacent habitat areas. No later than 30 days prior to commencement of Covered Activities, Permittee shall submit to CDFW for review and approval a Post-Project Lighting Plan. The lighting plan shall demonstrate that no post-project lighting (e.g., street lighting, trail

⁸ Hatfield, R., S. Jepsen, E. Mader, S. H. Black, and M. Shepherd. 2012. *Conserving Bumble Bees. Guidelines for Creating and Managing Habitat for America’s Declining Pollinators*. 32 pp. Portland, OR: The Xerces Society for Invertebrate Conservation.

⁹ Ibid.

lighting) that produces lux outside of the Project shall be installed. Permittee shall further ensure lighting installed in the future follows this guidance by including this Condition of Approval in the Declaration of Covenants, Conditions, and Restrictions (CC&Rs).

8. Habitat Management Land Acquisition and Restoration: 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 from 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 protected acreage required to provide for adequate compensation.

To meet this requirement, to offset the permanent impacts to 26.82-acres of coastal sage scrub habitat, the Permittee shall provide for both the permanent protection and management of 40.23 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3 below. Permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, 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, or as otherwise approved by CDFW in writing.

8.1. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:

- 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$135,000/acre for 40.23 acres: **\$5,431,050.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 8.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.2.1 and 8.2.2 below: **\$178,566.49**;
- 8.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.5 below, estimated at **\$557,951.88**;
- 8.1.4. Interim management period funding as described in Condition of Approval 8.2.6 below, estimated at **\$833,909.97**;
- 8.1.5. Long-term management funding as described in Condition of Approval 8.3 below, estimated at \$23,235.95/acre for 40.23 acres: **\$934,782.27**. Long-term management

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funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

- 8.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.4, estimated at **\$6,800.00**.
- 8.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$75,000**.

8.2. Habitat Management Lands Acquisition and Protection. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:

- 8.2.1. Fee Title. Transfer fee title of 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.
- 8.2.2. Conservation Easement. 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 elects not to be named as the grantee for 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 Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no

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circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

- 8.2.3. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land and/or recordation of the conservation easement by submitting, at least nine months before acquisition and/or transfer of or recordation of the conservation easement on the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 8.2.4. HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, land surveyor maps and products, and other necessary documents [in CDFW's Permittee Checklist of Documents for Habitat Management Land Property Review and Protection](#) (Attachment 5). 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;
- 8.2.5. 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. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 8.2.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (2) conducting a baseline biological assessment 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;
- 8.2.7. 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

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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, floral resource (nectar and pollen) establishment, floral resource irrigation and protection, floral resource monitoring, floral resource maintenance, potential remedial measures and costs, Covered Species surveys, and trespass management.

Permittee shall either (1) provide 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.

8.3. Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then 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 is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.2.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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- 8.3.1. 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 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)(3) 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)(3).

- 8.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare two endowment assessments (equivalent to a Property Analysis Record (PAR)). One endowment assessment is to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). A second endowment assessment is calculated for the conservation easement grantee to perform its monitoring and reporting duties. The Permittee shall submit to CDFW for review and approval the results of the two endowment assessments before transferring funds to the Endowment Manager.

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

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

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- 8.3.2.2.1. 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.
- 8.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 8.3.2.2.3. 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.

8.3.3. 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.

8.3.4. Management of the Endowment. 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.

Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.

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- 8.4. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 8.5. Habitat Mitigation and Monitoring Plan. Permittee shall restore and/or enhance the 40.23-acres of HM lands to offset the 26.82-acres of coastal sage scrub habitat that will be permanently impacted by Covered Activities. After restoration and/or enhancement activities, the HM lands will be maintained and monitored for five years, or until the HMMP's (defined below) success criteria have been met, whichever is longer. Within the HM lands, a minimum of 26.82-acres of coastal sage scrub habitat shall be restored through the installation of local native container stock in pre-designate patches (Condition of Approval 8.5.6). The rest of the HM lands shall be enhanced through the removal of nonnative vegetation and dispersal of native seed mix and other natural restoration revegetation. Proposed restoration and/or enhancement actions shall be approved by CDFW in writing. Restoration and/or enhancement activities shall commence within 6 months of the initiation of Covered Activities.

Within no more than 3 months of initiating Covered Activities, Permittee shall, in coordination with a restoration ecologist, submit to CDFW for review and approval a Habitat Mitigation and Monitoring Plan (HMMP) designed to meet the habitat restoration/enhancement, maintenance, and monitoring goals identified below. At a minimum, the HMMP shall include the following information: (a) a description of the conditions, including water resources, vegetation types to alliance (see A Manual of California Vegetation), and a map that identifies the location of the HM lands; (b) a plan for the enhancement/restoration of the site, including decompaction and recontouring of the site, if appropriate, the removal of non-native plants, revegetation methods (e.g., natural revegetation, topsoil salvage and redistribution, reseeding, planting), the installation of signage, fencing or other barriers, and the establishment of permanent photo stations; (c) a local, native plant palette; (d) procedures to ensure that nonnative plants are not introduced or allowed to sustain; (e) monitoring and maintenance schedules (monitoring and management activities shall occur no less than frequently than quarterly for the first two years); (f) contingency measures; and (g) quantitative success criteria. Success criteria shall include quantitative data collected and analyzed, such as cover, density, and composition using a CDFW approved sampling method. The HMMP maintenance and monitoring period shall be a minimum of 5 years from the date the initial restoration and enhancement actions are implemented and continue until the HMMP's success criteria are met, whichever is longer. Permittee shall include the following within the HMMP:

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- 8.5.1. Cover Species Habitat and Point Surveys. The Designated Biologist shall conduct three to five Covered Species point surveys (Point Surveys) within the HM lands prior to any restoration work. The Point Surveys shall be spaced two to four weeks apart when the colonies are most active and workers are out foraging (generally between April and August). Point Surveys shall occur between 9:00 AM and 1:00 PM on warm sunny days (65-90° F) with wind speeds of less than 8 miles per hour. Point Surveys shall consist of 1 hour of survey effort per 3 acres of suitable habitat or until 150 bumble bees are recorded. Photographic vouchers of the Covered Species shall be obtained either through photographing the bee on floral resources or, if the Designated Biologist is approved by CDFW to handle, by netting and chilling the specimens. See CDFW's *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (June 6, 2023)*. If additional habitat information needs to be collected, consider adopting the that of California Bumble Bee Atlas (CABBA) guidance for Habitat Surveys. Data shall be submitted by the Designated Biologist as an appendix with Monthly Reporting (Condition of Approval 6.5) to CDFW for the Project. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall contact CDFW as required by Condition of Approval 7.6.
- 8.5.2. Vegetation Sampling Methodology. The Designated Biologist qualified and approved by CDFW to conduct botanical surveys shall develop a vegetation sampling methodology. The vegetation sampling methodology shall include both a qualitative (windshield and pedestrian) and quantitative assessment of native and invasive vegetation species within the HM Lands. The quantitative assessment of native and invasive vegetation species shall be based on establishment of an appropriate, representative number of transects within disturbed areas ("treatment," to be restored) and paired reference areas ("control," sites within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately placed and numbered for identification purposes. The slope, aspect, and soil and hydrological conditions shall be similar for the paired treatment and control sites. Permittee shall ensure that data collection and analysis methodologies are appropriate to document pre-Project baseline and post-restoration conditions, and reflects percent cover, distribution, and general abundance of native and invasive plant species within the HM Lands. Permittee shall also document plant species composition at the treatment and control sites and summarize percent cover of invasive plant species ranked in the California Invasive Plant Council (Cal-IPC) California Invasive Plant Inventory as High or Moderate (<https://www.cal-ipc.org/plants/inventory/>). Permittee shall use information collected at the control sites to guide restoration activities. To reflect baseline habitat condition for the Covered Species, Permittee shall conduct baseline sampling prior to the start of ground-disturbing activities.

The vegetation and soil sampling methodology shall be submitted to CDFW for review and approval at least 45 days prior to the start of baseline vegetation and soil sampling.

- 8.5.3. Pollen and Nectar Resources. The HMMP shall include a list of pollen and nectar resources that specifies a palette of locally native, drought tolerant species of which at least three species can be expected to be blooming at any given time throughout the active season for Crotch’s bumble bee (approximately February 1 through October 31). Nectar- and pollen-producing plants that may be used by Crotch’s bumble bee include, but are not limited to, the genera *Asclepias*, *Chaenactis*, *Lupinus*, *Phacelia*, and *Salvia* in the families *Fabaceae*, *Apocynaceae*, *Asteraceae*, *Lamiaceae*, *Hydrophyllaceae*, *Plantaginaceae*, *Onograceae*, *Papaveraceae*, *Polygonaceae*, and *Boraginaceae*. The HMMP shall specify that pollen and nectar resources imported to the Project Area shall not have been treated with pesticides and shall be pathogen-free. See Condition of Approval 5.10.
- 8.5.4. Topsoil. At a minimum, the HMMP shall require gravel and other non-native substrate be removed from HM lands. To the maximum extent feasible, topsoil from coastal sage scrub habitat shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free and pathogen-free topsoil similar in texture, chemical composition and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (for example the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill.
- 8.5.5. Contouring. The HMMP may allow for minor re-contouring. However, at a minimum, the HMMP shall prohibit grading compaction, fill, and other earthmoving activities within the HM Lands. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event. Mulch and seed shall be weed free and pathogen free.
- 8.5.6. Planting. Permittee shall pre-designate patches within the HM lands for establishment of a specific native vegetation community, based on slope, aspect, soil and hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each pre-designated patch shall be tailored to achieve the species

composition of the pre-designated vegetation community. The distribution of vegetation communities within the mitigation area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each pre-designated patch shall closely match that of the associated reference site.

The HMMP shall include a list of pollen and nectar resources that specifies a palette of locally native, drought tolerant species of which at least three species can be expected to be blooming at any given time throughout the active season for Crotch's bumble bee (approximately February 1 through October 31). Nectar- and pollen-producing plants that may be used by Crotch's bumble bee include, but are not limited to, the genera *Asclepias*, *Chaenactis*, *Lupinus*, *Phacelia*, and *Salvia* in the families *Fabaceae*, *Apocynaceae*, *Asteraceae*, *Lamiaceae*, *Hydrophyllaceae*, *Plantaginaceae*, *Onograceae*, *Papaveraceae*, *Polygonaceae*, and *Boraginaceae*. The HMMP shall specify that pollen and nectar resources imported to the Project Area shall not have been treated with pesticides and shall be pathogen-free. See Conditions of Approval 5.9 and 7.7.

8.5.7. **Seeding.** Seed mixes shall include only locally native species, including diverse assemblages of native flora, with an emphasis on native bunchgrasses and other grassland species including local, native wildflowers. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (original genetic material collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species. Seed mixes shall not have been treated with pesticides and shall be pathogen-free.

Permittee shall complete seeding prior to winter rains, but no later than October 31 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a subsequent application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon. Straw and/or mulch used shall be weed and pathogen free.

8.5.8. **Invasives.** At a minimum, the HMMP shall include that no more than 15 percent of the vegetation within the HM lands shall consist of species designated as high or moderate invasive plants in the Cal-IPC California Invasive Plant Inventory Database (<https://www.cal-ipc.org/plants/inventory/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with CDFW and the property owner.

8.5.9. Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of the HM lands. Photo monitoring station results shall contribute to CDFW's assessment of restoration work; therefore, Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document restoration success and include the treatment and control sites specified in Condition of Approval 8.5.2. Photo monitoring shall be done as follows:

8.5.9.1. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.

8.5.9.2. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration are complete. Photo documentation of restoration success shall occur once every three months at all stations following initial restoration until HMMP success criteria are reached.

To document existing plant communities, Permittee shall ensure the treatment and control sites specified in Condition of Approval 8.5.2, are photographed during the spring (e.g., March to June) when most flowering plants are in bloom and during seasons that target invasive species are most likely to be.

8.5.9.3. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system and horizontal error identified.

8.5.9.4. If CDFW or the Designated Biologist determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.

8.5.9.5. During each photo monitoring cycle, all stations shall be visited within two days.

8.5.10. Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the HM lands for a period of five years or until the HMMP success criteria have been met, whichever is longer. After the first six months following completion of restoration activities, Permittee shall submit a brief monitoring report (approximately 10 pages or less, not including figures) detailing vegetation establishment, percent invasive plant cover, and other relevant observations regarding success of the restoration project to CDFW.

If the survival and/or cover requirements are not meeting the success criteria outlined in the HMMP, Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication, or any other practice necessary to achieve these requirements. Permittee shall submit annual restoration reports by December 31 to CDFW until the success criteria have been met. Replacement plantings shall be monitored with the same survival and growth requirements for five years after planting.

8.6. Long-Term Management Plan. The Permittee shall prepare or fund the preparation of a Long-Term Management Plan (LTMP) designed to sustain or surpass the habitat quality of the HM lands after the success criteria in the HMMP has been met and approved by CDFW, in perpetuity. At a minimum, the LTMP shall identify: (1) an estimated description of the physical condition of the mitigation site (at completion), including water resources and habitat types, and a map that identifies the location of the site; (2) goals related to sustaining habitat quality, wildlife usage, and overall function of the HM lands; and (3) management strategies proposed to meet those goals, including a monitoring and maintenance schedule, maintenance of signage and a list of contingency measures. Permittee should consult with CDFW for LTMP requirements and for an appropriate LTMP template. The Permittee shall be responsible for implementing the LTMP and shall submit a Management Report every five years documenting, at a minimum: (1) management activities completed within the previous five-year term, including: (a) any remedial measures completed, (b) details of non-native species removal including: (i) species removed, (ii) the amount and frequency of removal, and (iii) the techniques used, and (c) enforcement activity necessary; (2) an assessment of overall habitat quality within the HM lands, including: (a) percent native and non-native vegetation cover, (b) any shifts in habitat type, (c) any loss of habitat cover, (d) any change in water resources, and (e) any new non-native species observed; and (3) an evaluation of the success or failure of management strategies implemented and any changes to management strategies proposed in response to the success or failures. The Management Report shall include photos documenting the management activities. Permittee shall submit the LTMP to CDFW for review and approval within one year after the effective date of this ITP.

9. **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 **\$8,018,035.61** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

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- 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. 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 an escrow agreement, 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 be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements and closing documentation;
 - 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, or as otherwise approved by CDFW in writing. 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.

X. 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

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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.

XI. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order 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, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. 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.

XII. Liability:

All terms and conditions of this ITP shall be binding upon each Permittee if there is more than one entity as Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee shall be jointly and severally liable for performance of all terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of this ITP, whether committed by Permittees or any person acting on behalf of one or more Permittees, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more Permittees to comply with any term, condition, or obligation herein shall be deemed a failure to comply by all Permittees.

XIII. 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.

XIV. Notices:

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to

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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

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 (2081-2023-035-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Heidi Calvert, Regional Manager
California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
(909) 484-0523
Heidi.Calvert@wildlife.ca.gov

and a copy to:

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

Marina Barton
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0523
Marina.Barton@wildlife.ca.gov

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XV. Compliance with the California Environmental Quality Act:

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 Chino Hills. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency’s prior environmental review of the Project is set forth in the *Shady View Residential Project Final Environmental Impact Report* and the *Shady View Residential Project Addendum 1 to the Final Environmental Impact Report*, (SCH No.: 2021035576) dated August 2022 and August 2023, respectively, that the City of Chino Hills certified for the Shady View Residential Project and then approved the project on September 9, 2022. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures that would benefit the Covered Species as conditions of Project approval.

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

XVI. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, the *Shady View Residential Project Final Environmental Impact Report*, the results of a site visit on September 12, 2023, 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

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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 40.23 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, the restoration/enhancement of the 40.23 acres of habitat, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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

XVII. Attachments:

FIGURE 1	Map of Project
FIGURE 2	Project Development Plan
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

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ATTACHMENT 5

CDFW's Permittee Checklist of Documents for Habitat
Management Land Property Review and Protection

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 11/5/2025

DocuSigned by:

Heidi Calvert

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Heidi Calvert, Regional Manager
Inland Deserts Region

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