



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

California Endangered Species Act  
Incidental Take Permit No. 2081-2025-025-06

**VEGA 5 SOLAR ENERGY SYSTEM 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 take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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.)

<b>Permittee:</b>	<b>Cedar 2 SES, LLC</b>
<b>Principal Officer:</b>	<b>David Velasco, Chief Operating Officer</b>
<b>Contact Person:</b>	<b>Kyle Nauman, (201) 275-4780</b>
<b>Mailing Address:</b>	<b>110 Edison Place, Suite 312 Newark, NJ 07102 <a href="mailto:kin@vcrenewables.com">kin@vcrenewables.com</a></b>

**II. Effective Date and Expiration Date of this ITP:**

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 **08/31/2027** for Covered Activities associated with the construction of the Project, or upon completion of construction, whichever comes first; and **1/05/2056**, for Covered Activities associated with the operations and maintenance of the Project.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 5.9 of this ITP.

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<sup>1</sup>Pursuant 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".])

<sup>2</sup>The 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.

### **III. Project Location:**

The Vega 5 Solar Energy System Project (Project) is located on portions of assessor parcel numbers (APNs) 025-260-052, 025-260-053, 025-260-022, 025-260-051, and 025-260-024 within Imperial County (see Figure 1). The Project is located approximately 5.67 miles southeast of the census-designated place of Niland, between the unincorporated communities of Iris and Slab City. The approximate center coordinates of the Project are latitude 33.206792 and longitude -115.438061.

### **IV. Project Description:**

The Project includes the construction, operations, and maintenance of a 50-megawatt (MW) solar photovoltaic (PV) facility, 50-MW battery energy storage system (BESS), substation, medium-voltage (MV) collection lines, high-voltage generation tie (gen-tie) transmission line, access roads, and retention basins (see Figure 2). The Project will result in the development of approximately 277.30 acres on 422.50 acres of property leased to the Applicant. Project activities include the following:

#### Solar PV Facility

Crystalline solar PV technology modules will be mounted on horizontal single-axis tracker systems. The PV module arrays will be mounted on single-axis trackers that will be supported by driven piles. The depth of the piles shall be 4 to 9 feet. Piles will be driven into the ground using mechanized equipment. The single-axis trackers will be oriented along the north-south axis and have a 60-degree range of tracking. Project single-axis trackers will be mounted between 3 and 6 feet off the ground, providing a minimum of 18 inches to 2-feet of ground clearance. This results in the tops of the panels located approximately 9 feet above the ground. The PV module arrays will be arranged in arrays spaced approximately 15 to 25 feet apart (pile-to-pile) in the east-west direction to maximize performance and to allow access for panel cleaning. These arrays will be separated from each other and from site boundaries by approximately 30 feet to allow space for internal fire access roads, perimeter roads, and perimeter fencing.

#### BESS

The Project's BESS will be located within fenced gravel yards on concrete pads at the southern edge of the Project site. The BESS will consist of containerized battery enclosures connected to power conversion system skids consisting of direct current/alternating current inverters and MV transformers, control panels, and fire suppression systems. Each enclosure will include built-in fire suppression systems. The batteries will be lithium-ion based and capable of storing up to 50-MW. Battery cells will be rack-mounted and integrated in pre-engineered, containerized battery enclosures.

#### Substation

The collector substation will be located with the BESS within fenced gravel yards on concrete pads at the southern edge of the Project site. Substation equipment will consist of an MV bus, MV breakers, a generator step-up transformer, a high-voltage bus, high-voltage breakers, a station service transformer, lightning protection, backup batteries, instrumentation transformers, a controls

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enclosure, metering equipment, and relay equipment mounted on steel structures and concrete foundations within the substation yard.

### Electrical Power System

Energy generated by the PV modules will be collected by a direct current (DC) collection system routed along a system of hanger cables to combiner boxes. DC energy collected at the combiner boxes will be routed in underground trenches up to 6 feet in depth to power conversion system skids consisting of a DC/alternating current (AC) inverter and MV transformer, converting the 600-volt DC power to 34-kilovolt (kV) AC power. AC power is routed via underground MV cables in trenches up to 6 feet deep to the collector substation. Where required for crossing Project boundaries, such as the Union Pacific Railroad or Highline Canal, an overhead MV cable line will be utilized. To span the Highline Canal, an overhead MV line will be built along the northern edge of APN 025 260-022 and will include approximately nine overhead transmission structures that connect to the solar array on APN 025-260-053. From the western-most MV pole, the power collection cables will continue underground south towards the collector substation at the southeastern corner of APN 025-260-022.

Construction access to these poles is anticipated to require a 16-foot-wide temporary access path to construct the poles east of the Highline Canal, including along approximately 215 feet within the Siphon 5 drainage feature within APN 025-260-022. Construction access to build the poles directly on either side of the Highline Canal will be from the two existing access roads that are parallel to the Highline Canal. The terminal pole in this line, which facilitates the transfer of the overhead cable into the underground facility, will be entirely within the solar array construction site, so a separate temporary construction path will not be required for this pole.

Each pole in this overhead MV line is assumed to result in a 2-square-foot permanent impact area. Each pole is also assumed to have a permanent brush clearance area of 5 feet from the outside edge of the pole (10-foot total diameter) where vegetation will be removed as needed to minimize fire risk and facilitate access to the pole in perpetuity.

In addition to the MV line at the northeast corner of APN 025-260-022, an additional overhead MV line will cross the Union Pacific Railroad to transmit power from APN 025-260-052 to APN 025-260-053, where power will be carried along the MV overhead lines on APN 025-260-022 and the Imperial Irrigation District (IID) substation south of the Project. The poles supporting this overhead MV line will be placed entirely within the solar energy facility. Finally, an underground MV line will be constructed entirely within Nider Road to transmit power generated from the solar facility on the far eastern triangle of APN 025-260-053 to the solar facility infrastructure on the western section of APN 025-260-053.

### Gen-tie transmission line

A 92-kV gen-tie line will connect to the MV collection line, and the BESS and Project substation to the larger IID Midway Substation at the northwest corner of East Simpson Road and East Highline Canal

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Road. Approximately 18 poles will be constructed as part of the gen-tie line along approximately 0.9 miles within the existing IID transmission right-of-way. Each gen-tie pole will result in a 3-square-foot permanent impact area. Each pole will also have a permanent brush clearance area of 5 feet from the outside edge of the pole (10-foot total diameter) where vegetation will be removed to minimize fire risk and facilitate access to the pole in perpetuity. Stringing the gen-tie line will be completed with cranes, sheaves, and trailer-mounted pullers. Pull and tension sites are not required.

#### Access Roads

The Project will include the construction of an approximately 20-foot-wide access road from the Project site to Flowing Wells Road, to the north. The access road will be located parallel to and east of the IID transmission line easement. The access road will be constructed within APN 025-260-051, which comprises a portion of the nearby Vega 2 Solar Energy System facility. The access road will be built from compacted native materials except where conditions require import of Class II aggregate base.

An internal connector road will also be constructed across the Siphon 5 drainage, on APN 025-260-052. This internal connector road will be across the narrowest portion of the Siphon 5 wash. This internal connector road will allow construction access and emergency personnel to reach the solar array on the southeast corner of APN 025-260-052, from the access roads on the north side of Union Pacific Railroad. The access road will be 20 feet wide and built from compacted native materials except where conditions require import of Class II aggregate base.

All other access to and from the Project site will be from existing public access roads, including Nider Road, which will provide critical internal access routes connecting the two solar arrays on APN 025-260-053. Any future improvements to the existing Nider Road are not included in the Project. Internal access will occur outside of proposed access roads only within active construction areas and approved Project work areas. Pick-up trucks and all-terrain vehicles will be the primary vehicles used to move people and materials throughout active construction areas.

#### Retention Basins

Approximately 23 retention basins will be constructed within APN 025-260-022. These basins will be approximately 18 inches to 3 feet deep and will be constructed with a 10:1 slope on all sides. The retention basins will not include impervious improvements.

#### Site Preparation

Prior to clearing and grubbing, the limits of construction work shall be delineated through staking and flagging. Directly west of the BESS site, a level pad will be established for a laydown yard. Large 18-wheeled trucks will deliver Project construction materials and supplies to this laydown yard, accessing the area from the existing Schrimpf Road. Large forklifts will move equipment and supplies from the 18-wheeled trucks onto the laydown yard pad. These initial site mobilization activities are

anticipated to occur prior to the primary construction activities associated with panel installation and other Project components.

Clearing and grubbing of the Project site will be accomplished with large, mechanized equipment, such as a front-end loader with rake attachment where dense or thick brush occurs, or with an excavator with thumb attachments if deep roots are present. Where only small brush occurs, a motor grader will be used to remove any loose materials or topsoil. Cleared vegetative material will be piled using a grader or front-end loader and loaded into trailers using an excavator. All materials shall be removed and disposed of according to the Project's approved waste disposal plan.

#### Operations and Maintenance

Operations and maintenance (O&M) activities will commence following construction and include, but is not limited to, regular monitoring of energy production, cleaning solar panels to remove dust and debris, inspecting electrical components like inverters, checking for damage to the mounting structure, managing vegetation around the Project site, identifying and addressing potential safety hazards, and performing preventative maintenance on all system components to ensure optimal energy generation and system longevity. Solar panel cleaning will occur approximately once to twice per year, depending on rainfall. Vegetation management around the Project site will occur approximately once to twice per year, depending on growth.

BESS maintenance includes, but is not limited to, monitoring the batteries charge, voltage, and capacity, performing electrical inspections, and performing minor repairs. Maintenance activities also include, but are not limited to, routine cleaning of the system, replacing worn or damaged components, and performing capacity tests on the batteries to ensure their continued efficient storage capabilities. Monitoring will be performed remotely to ensure that the BESS is properly protected against physical damage and power outages. Inspections and maintenance of the BESS will occur quarterly.

General maintenance of the gen-tie and MV interconnect line include, but is not limited to, replacing worn or damaged components like insulators, hardware, and conductors as needed pole repair or replacement, and re-stringing; vegetation management to maintain proper clearances of approximately 10-feet in diameter around the line; and addressing corrosion issues on towers and grounding systems. Routine visual inspections of the line's towers, conductors, insulators, and hardware to identify potential issues like loose connections, damaged components, or vegetation encroachment will also occur on a regular basis, likely a quarterly basis or semi-annual basis.

Use of the existing public roadways, internal access road across the Siphon 5 drainage, and the access road to Flowing Wells Road will occur to access various sections of the Project site. Maintenance of these access roads may require semi-annual, annual, or biennial re-grading of sections. Regular maintenance or grading for the temporary construction path along the eight MV overhead lines that

will be constructed on APN 025-260-022 is not anticipated. No regular maintenance activities on public roads will occur as a direct result of the Project.

Habitat Enhancement

The remaining portions of APNs 025-260-022, 025-260-052, and 025-260-053 that are not developed for the Project may be used for passive relocation efforts for the Covered Species and will entail installation of artificial burrows and other habitat enhancements, as required in the Burrowing Owl Mortality Reduction Plan.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> <sup>3</sup>
Western burrowing owl ( <i>Athene cunicularia hypugaea</i> )	Candidate <sup>4</sup>

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

**VI. 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 construction of temporary and permanent Project facilities and structures; vegetation clearing and grubbing; grading, leveling, and compaction; trenching and/or excavation; fencing installation; pile driving; operation of vehicles and heavy equipment; noise, vibration, and dust generating activities; operations and maintenance activities, such as vegetation management, equipment repairs/replacement, and cleaning of Project components; and capture and relocation activities (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as collision with, or crushing by, vehicles or heavy equipment; collision with lines, fencing, or other structures; crushing or burial of individuals or eggs in burrows; destruction of burrows; and nest abandonment caused by increased construction-related or operations and maintenance-related disturbances. 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 capture and relocation activities; excavation of burrows; and entrapment in holes, trenches, or construction materials. The areas where authorized take of the Covered Species is expected to occur include: the proposed solar array fields, laydown yard, BESS and substation gravel yard, connector and access roads, gen-tie line, MV collector lines, and access and connector roads, as depicted in Figure 2, and the Covered Species habitat enhancement area

<sup>3</sup> Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

<sup>4</sup> The 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 (Fish & G. Code, § 2050 et seq.; California Regulatory Notice Register 2024, No. 43-Z, p. 1400; Fish & Game Code, § 2074.2.).

(collectively, the Project Area).

The Project is expected to cause the permanent loss of approximately 276.7 acres of habitat 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 stress resulting from noise and vibrations from ground-disturbing activities and capture and relocation; long-term effects due to increased light, noise, pollution, and human disturbance; displacement from preferred habitat; increased competition for food and space; reduced prey availability; and increased vulnerability to predation.

#### **VII. 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 capture and relocation of Covered Species as authorized by this ITP.

#### **VIII. Conditions of Approval:**

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and noise and vibration generating activities that may/will cause take. CDFW's issuance of this ITP and 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. California Environmental Quality Act (CEQA) Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Final Environmental Impact Report (SCH No.: 2021050013) certified by County of Imperial Planning and Development Services Department on October 24, 2023, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

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#### 4. General Provisions:

- 4.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 4.2. Designated Biologist(s) and Biological Monitor(s) Approvals.** 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, identification of Covered Species signs, and collecting and handling of the Covered Species. Additionally, the Designated Biologist(s) shall have experience with all tasks required to be completed by the Designated Biologist for the Covered Species in this ITP and associated Burrowing Owl Mortality Reduction Plan. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) 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.
- 4.3. 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(s) in the performance of their 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.



- 4.4. Veterinarian(s).** Permittee shall identify a veterinarian(s) for the Covered Species. Permittee shall obtain written confirmation from the veterinarian(s) that they will accept injured Covered Species for treatment. Written confirmation shall also contain the veterinarian's contact information and facility location. Permittee shall provide a copy to CDFW before starting Covered Activities. The contact information and location of the facility shall be on site for the Authorized Biologist(s) during Covered Activities.
- 4.5. 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 until this ITP expires for long-term and/or permanent employees that will be conducting work in the Project Area.
- 4.6. 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 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.
- 4.7. 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 predators such as ravens, coyotes, and feral dogs.
- 4.8. 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.

- 4.9. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 4.10. Delineation of Property Boundaries.** Before starting Covered Activities along each part of the route in active construction, 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. Materials used shall not encourage raptor perching near Covered Species burrows.
- 4.11. Delineation of Habitat.** Before starting Covered Activities, Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 4.12. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. 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.
- 4.13. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 4.11 of this ITP.
- 4.14. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 4.15. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW

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efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

- 4.16. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

## **5. Monitoring, Notification and Reporting Provisions:**

- 5.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 5.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW 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.
- 5.3. Notifying Procedures.** The Permittee or the Designated Representative shall provide all required notifications in this ITP by sending an email to the CDFW Regional Representative, Lily Mu ([Lily.Mu@wildlife.ca.gov](mailto:Lily.Mu@wildlife.ca.gov)), and as described in the Notices section of this ITP. All notifications shall be submitted via email to the Regional Representative and shall include the following information: ITP Number, the ITP Condition number that the notification is addressing, any necessary photos or attachments, and the name and phone number of the Designated Biologist(s) and/or Biological Monitor(s) (if applicable).
- 5.4. Compliance Monitoring During Construction.** The Designated Biologist shall be on-site daily when Covered Activities related to construction occur. The Designated Biologist shall conduct compliance inspections at a minimum of three times per day (once during the onset of the day's work, once midday, and once at the conclusion of that day's work) or as otherwise specified by this ITP and associated Covered Species plans. 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(s) and/or Biological Monitor(s) shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

**5.5. Compliance Monitoring During Operations and Maintenance.** During the O&M period, the Designated Biologist(s) and/or Biological Monitor(s) shall be on-site daily when ground disturbing Covered Activities occur and for periodic monitoring of occupied Covered Species burrows. The Designated Biologist(s) and/or Biological Monitor(s) shall conduct compliance inspections of ground-disturbing Covered Activities a minimum of once per day or as otherwise specified by this ITP. The Designated Biologist(s) and/or Biological Monitor(s) shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones; and
- (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

**5.6. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 5.4 into a Quarterly 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 Lily Mu ([Lily.Mu@wildlife.ca.gov](mailto:Lily.Mu@wildlife.ca.gov)) and Headquarters CESA Program email is [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

**5.7. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year, beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in

Condition of Approval 5.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary, if any, and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; (7) information about other Project impacts on the Covered Species; and (8) Covered Species monitoring results as required by the Burrowing Owl Mortality Reduction Plan.

During the O&M period, each ASR shall also include the type and location of ground disturbing activities from repairs and/or maintenance, including vegetation management, if any.

**5.8. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation, and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.

**5.9. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

**5.10. Notification of Take, Injury, or Nest Abandonment.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Covered Activity or Project-related activity, if a Covered Species is found dead or injured within the vicinity of the Project, or if eggs or nestlings are found in a nest that has been abandoned as a result of Covered Activities or Project-related activities within the vicinity of the Project Area. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured

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and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the common and scientific name, the date and time of the finding or incident, observer name and contact information, geo-referenced location of the animal or carcass (Project name, ITP number, County, GPS location, and GPS datum), sex (if known), life stage/age class (if known), a photograph (if possible), explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist(s) or Designated Representative shall provide CDFW weekly updates on the status of the rehabilitation facility's treatment of the individual(s).

- 5.11. Future Take or Injury Prevention.** The Permittee shall develop and include measures that will be implemented to prevent or minimize future take or injury of Covered Species in all reports provided under Condition of Approval 5.10.

- 6. Take Minimization Measures:** The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. For the purposes of the Conditions of Approvals below, Covered Species burrows are defined as:

**Known Burrow:** A known Covered Species burrow is a burrow that shows evidence of current or past use within the last three years or is known based on Project observations to have been used in the past which includes natural and "atypical" burrows (e.g., a pipe, culvert, buckled concrete, etc.).

**Nesting Burrow:** A nesting Covered Species burrow is a known burrow with indications of the presence of eggs, chicks, dependent young, and/or evidence of adult courtship behavior, brooding or egg incubation.

Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

- 6.1. Burrowing Owl Mortality Reduction Plan.** The Permittee shall submit a Burrowing Owl Mortality Reduction Plan prepared by approved Designated Biologist(s) to CDFW at least 30 days prior to beginning Covered Activities. Burrow exclusion, burrow excavation, burrow collapsing, artificial burrow construction, and other relocation activities shall not proceed until this plan has been approved in writing by CDFW. The Burrowing Owl Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology, including the time and date of survey(s), survey area with buffer, and statuses of previously identified suitable burrows; detailed burrow exclusion and excavation methods; methods for monitoring Covered Species pre- and post-exclusion; proposed avoidance buffers based on Covered Activities and disturbance level; proposed Covered Activities that may occur within a buffer reduction request; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured Covered Species or care for at-risk Covered Species, Covered Species eggs, and/or Covered

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Species chicks per Condition of Approval 4.4; and procedure for collection and storage of Covered Species carcasses. The plan should also include a discussion and map of potential artificial burrow replacement locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances to natal burrows); artificial burrow installation methods; and long-term artificial burrow protection and maintenance methods; and timing of artificial burrow installation/construction. Only CDFW-approved Designated Biologist(s) or personnel following directions from and under the supervision of Designated Biologist(s), shall handle and transport injured Covered Species for treatment or impacted Covered Species eggs for salvage. All other Covered Species handling is prohibited.

Once the Burrowing Owl Mortality Reduction Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any Permittee proposed changes to the Burrowing Owl Mortality Reduction Plan shall be submitted, in writing, to CDFW and approved in writing prior to the implementation of any proposed modifications.

- 6.2. Burrow Replacement.** The Permittee shall replace each known Covered Species burrow (as defined above) that cannot be avoided within the Project Area with an artificial burrow to compensate for the loss of important shelter used by Covered Species for protection, reproduction, nesting, and escape from predators.
- 6.3. Pre-Construction Surveys and Reporting.** The Designated Biologist(s) shall conduct pre-construction surveys in the entire Project Area to identify, flag, and map all potential, known, and/or nesting Covered Species burrows (as defined above) within 45 calendar days prior to beginning Covered Activities. Surveys shall include the Project Area and 500 feet (where feasible) beyond the limits of the Project Area, unless otherwise approved in advance and in writing by CDFW. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012). If the Designated Biologist(s) identifies any potential, known, or nesting Covered Species burrow(s), the burrow(s) shall be monitored following Conditions of Approval 6.6 and 6.7, unless avoided per Condition of Approval 6.5.

If the Designated Biologist(s) identifies any potential, known, or nesting Covered Species burrows, no-disturbance buffer zones shall be established per Condition of Approval 6.5. Permittee shall provide the pre-construction survey results with a Burrow Complex Map (Condition of Approval 6.4) in a written report to CDFW's Regional Representative at least five calendar days prior to the beginning of Covered Activities. The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).

If a lapse in Project-related work of 14 calendar days or longer occurs in any part of the Project Area, the Permittee shall contact the CDFW Regional Representative by email and may be required to conduct additional surveys before work can be reinitiated in that part of the Project Area.

- 6.4. Burrow Complex Map.** The Designated Biologist(s) shall provide a KMZ map to CDFW of all burrows found during the pre-construction surveys performed per Condition of Approval 6.3. The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all Covered Species sightings and labeled if sightings were known burrows, nesting burrows, potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and Covered Species sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area and a title, north arrow, scale bar, and legend.

If a lapse in Project-related work of 14 calendar days or longer occurs, the Permittee shall contact the CDFW Regional Representative by email and may be required to provide an updated Burrow Complex Map before work may be reinitiated.

- 6.5. Burrow Avoidance.** For any potential Covered Species burrows that remain onsite, the Permittee shall establish no-disturbance buffer zones as described in the Burrowing Owl Mortality Reduction Plan around known (including roosting and satellite burrows) and nesting Covered Species burrows according to the following guidelines:

- 6.5.1. If a known Covered Species burrow is discovered, the Permittee shall establish a minimum no-disturbance buffer. A no-disturbance buffer as described in the Burrowing Owl Mortality Reduction Plan shall be established around known burrows.
- 6.5.2. If a nesting Covered Species burrow is discovered within or immediately adjacent to the Project Area, the Permittee shall follow procedures outlined in the Burrowing Owl Mortality Reduction Plan.
- 6.5.3. If Covered Species burrows cannot be avoided as described above, the Permittee shall implement Conditions of Approval 6.1, 6.6, and 6.7 as appropriate. Covered Species burrows that cannot be avoided shall be replaced per Condition of Approval 6.2.

If Covered Species individuals are visibly stressed by the Covered Activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers will be determined by the Designated Biologist(s) based on their behavioral observations of the affected Covered Species. The Designated Biologist(s) shall report to CDFW any buffers that were increased due to behavioral observations for evaluation and determination of buffer effectiveness.



The Permittee shall change the method of marking the no disturbance buffer if corvids, raptors, or other predators are observed perching on marking materials. The Permittee shall limit the materials necessary to mark the no-disturbance buffer to that which is necessary for identification of the site. The Permittee shall delineate the no-disturbance buffer with different materials than those used to delineate the Project Area. The Permittee shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.

The buffers prescribed above shall not be reduced or otherwise modified below the minimum distance as described in the Burrowing Owl Mortality Reduction Plan without the prior written approval of CDFW. If the Designated Biologist(s) determine(s) that specific Covered Activities are not likely to affect Covered Species individuals using known or nesting Covered Species burrows due to the nature of the specific Covered Activities and/or due to objects or topography that might reduce potential noise disturbance or obstruct view of the Covered Activities from the nest, then the Designated Biologist(s) may email a written request to CDFW to reduce the buffer distance, along with documented observational data for a buffer reduction request. CDFW will review each buffer reduction request on a case-by-case basis and provide a determination in response to each buffer reduction request in writing. CDFW may request additional and/or ongoing biological monitoring prior to approving a buffer reduction request. Written approval from CDFW is required before a buffer distance may be reduced to allow for Covered Activities to occur.

- 6.6. Burrow Exclusion and Excavation.** Permittee shall avoid excluding or destroying any known or potential Covered Species burrows unless they are in an area of direct development and ground disturbance (e.g., grading areas, excavation areas) or their location poses a risk of direct harm to Covered Species individuals. Burrows that are outside of direct impact areas shall not be excluded or destroyed to avoid the buffer requirements described in this ITP or Burrowing Owl Mortality Reduction Plan.

The Designated Biologist(s) or Biological Monitor(s), under direct supervision of the Designated Biologist(s), shall excavate known or potential Covered Species burrows that exhibit signs or current or past use or characteristics suggestive of a Covered Species burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the Condition of Approval 6.5 and are within the footprint of ground-disturbing activities. Exclusion shall occur outside the breeding season unless otherwise approved by CDFW in advance in writing. Burrows to be destroyed shall be fully excavated, filled with dirt or soil, and compacted to ensure that Covered Species cannot reenter or use the burrow during the period that Covered Activities occur in the Project Area. An established no-disturbance buffer around a burrow may be removed once the burrow is collapsed and the Covered Species(s) is/are no longer using the burrow. A period of at least 7 days is required after the collapse of burrows before Covered Activities in the area can begin.

- 6.6.1. Potential Covered Species burrows (any subterranean hole 8 centimeters or larger for which no evidence is present to conclude that the burrow is being used or has been used by a Covered Species) without any signs of Covered Species use or characteristics suggesting it is a Covered Species burrow may be excavated immediately under the direct supervision of the Designated Biologist(s) without prior camera monitoring
- 6.6.2. Excavation of known Covered Species burrows shall only occur after the Designated Biologist(s) has determined that the Covered Species is not currently present after four consecutive 24-hour periods of monitoring with infrared cameras. Burrows shall be carefully hand excavated with hand tools, or by mechanical means if a specific methodology is approved in writing by CDFW, until it is certain no individuals of Covered Species are inside. If during the excavation process, evidence of current use by BUOW is discovered, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. CDFW shall be notified immediately.
- 6.6.3. Covered Species burrows used for nesting shall not be excavated until biological and camera monitoring confirm that the chicks have fledged, are foraging independently, and are no longer dependent on the nest, and then only after written concurrence from CDFW.
- 6.7. Burrow Blockage. If an unoccupied Covered Species burrow can be avoided by construction and does not need to be collapsed but is within a distance of construction to cause significant stress to the Covered Species, the Permittee shall block rather than destroy the burrow. The blocked burrow will be unblocked and made available for use after construction is complete. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Designated Biologist(s) or Biological Monitor(s) at least once a week to ensure that the exclusionary material is still intact. If Covered Species gains access to the burrow, the Designated Biologist(s) or Designated Representative shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of Covered Activities within the prescribed buffer distance.
- 6.8. Entrapment Inspections. Any pipes, culverts, burrow exclusion installations, or similar structures with a diameter greater than 8 centimeters shall be stored horizontally and inspected for Covered Species individuals and eggs by the Designated Biologist(s) and/or Biological Monitor(s) before the material is moved, buried, or capped. The Designated Biologist(s) and/or Biological Monitor(s) shall inspect all open holes and trenches within Covered Species habitat at a minimum of twice a day and just prior to backfilling.. If any worker discovers that a Covered Species individual has become trapped, they shall halt Covered Activities and notify the Designated Biologist(s) and/or Biological Monitor(s)

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immediately. Project workers and the Designated Biologist(s) and/or Biological Monitor(s) shall allow the Covered Species to escape unimpeded if possible, or the Designated Biologist(s) approved under Condition of Approval 4.2 shall move the Covered Species out of harm's way before allowing work to continue.

**6.9. Artificial Nighttime Lighting.** Throughout construction and the lifetime operations of the Project, Permittee shall eliminate all nonessential lighting throughout the Project Area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. Permittee shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space, burrows or Covered Species habitat, and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Permittee shall ensure use of lighting with a correlated color temperature of 3,000 Kelvins or less.

**6.10. Covered Species Injury and Nest Abandonment.** If a Covered Species is injured or found dead or nestling(s) or egg(s) are found in a nest that has been abandoned as a result of Covered Activities or Project-related activities within the vicinity of the Project Area, the Designated Biologist(s) shall immediately notify the CDFW Regional Representative. If a Covered Species individual is found injured, the Designated Biologist(s) shall immediately transport the injured individual to a CDFW-approved wildlife rehabilitation center or veterinary facility. The Permittee shall identify the facility before starting Covered Activities. If nestling(s) or egg(s) are abandoned, the Designated Biologist(s) shall recover the nestling(s) or egg(s) and immediately take them to a CDFW-approved wildlife rehabilitation center or veterinary facility

The initial notification to CDFW shall include information regarding the location, species, number of animals taken injured, or abandoned and, if injured, the facility to which the individual was transported. Following initial notification, the Permittee shall send the CDFW Regional Representative a written report within two calendar days per Condition of Approval 5.10.

Permittee shall bear any costs associated with the care, treatment, and recovery of any injured Covered Species adults, abandoned nestling(s) or egg(s), and release and hacking (controlled release of captive reared young). Release and/or hacking location(s) shall be approved by CDFW prior to release of the Covered Species.

**6.11. Covered Species Observations.** If a Covered Species is observed during Covered Activities, all work within 300 feet of the Covered Species shall immediately stop and the observation shall be immediately reported to the Designated Biologist(s) and/or Biological Monitor(s). Covered Activities shall not resume until the Designated Biologist(s) and/or Biological

Monitor(s) has verified the Covered Species has left the Project Area, a Designated Biologist(s) approved under the Condition of Approval 4.2 of this ITP establishes a buffer for the Covered Species, or a Designated Biologist(s) approved under the Condition of Approval 4.2 of this ITP relocates the Covered Species as described in this ITP and Burrowing Owl Mortality Reduction Plan, OR the Designated Biologist(s) can observe the Covered Species to ensure take or disturbance to the individual will not occur as a result of Covered Activities. The Designated Representative shall notify CDFW of any Covered Species observations within the Project Area. Notification shall occur as described in Condition of Approval 5.3 within 24 hours. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Designated Biologist(s), action taken for the individual, pictures, maps, and shapefiles with the location (including GPS coordinates) as specified in the Burrowing Owl Mortality Reduction Plan.

**6.12. Retention Basin Water Stagnation.** To prevent corvid predation on the Covered Species and the attraction of wildlife during construction and O&M period, Permittee shall ensure that retention basins are emptied of standing water within 48 hours of a storm event.

Floodwater or stormwater runoff collected within the retention basins shall not be allowed to stagnate at any time for more than 48 hours.

**6.13. Herbicides.** Permittee shall not use herbicides on the Project Area without prior written permission from CDFW. If approved by CDFW, Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application shall occur when winds are greater than five (5) miles per hour.

**6.14. Rodenticides and Insecticides.** Permittee shall not use rodenticides and/or insecticides on the Project Area.

**7. 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, the Permittee shall provide for both the permanent protection and management of 663.88 acres of Habitat Management (HM) lands pursuant to Condition of Approval 7.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.3 below. Permanent protection and funding for perpetual management

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of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 8 below for all uncompleted obligations. The Permittee shall also restore on-site 3 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8 below.

**7.1. 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 and restoration of temporarily disturbed habitat as follows:

- 7.1.1. Land acquisition costs for HM lands identified in Condition of Approval 7.2 below, estimated at \$6,000.00/acre for 663.88 acres: **\$3,983,280.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 7.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 7.2.1 and 7.2.2 below: **\$17,440.00**;
- 7.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 7.2.6 below, estimated at \$2,000.00/acre for 663.88 acres: **\$1,327,760.00**; including;
- 7.1.4. Interim management period funding as described in Condition of Approval 7.2.7 below, estimated at \$600.00/acre for 663.88 acres: **\$398,328.00**;
- 7.1.5. Long-term management funding as described in Condition of Approval 7.3 below, estimated at \$3,100.00/acre for 663.88 acres: **\$2,058,028.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 7.1.6. 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 7.4, estimated at **\$6,000.00**.
- 7.1.7. Habitat Enhancement for Covered Species as described in Condition of Approval 7.5, including but not limited to artificial burrow materials and installation, monitoring, native species planting, invasive species management, estimated at **\$125,680.00**.
- 7.1.8. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual

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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 **\$75,000.00**.

**7.2. 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:

- 7.2.1. **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.
- 7.2.2. **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 circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 7.2.3. **HM Lands Approval.** Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, 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;
- 7.2.4. **HM Lands Documentation.** Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). 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;

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- 7.2.5. 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;
- 7.2.6. 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 (see optional management plan template at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 7.2.7. 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 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, signage replacement, and monitoring the population of the Covered Species.

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.

- 7.3. 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 7.3.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 7.3.1. 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).



- 7.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.
- 7.3.2.1 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.
- 7.3.2.2 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:
- 7.3.2.2.1 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.
- 7.3.2.2.2 Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 7.3.2.2.3 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.
- 7.3.3 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.
- 7.3.4 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.

7.4 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.

7.5 Habitat Enhancement. Permittee shall install artificial burrows and provide habitat enhancement in artificial burrow locations for the Covered Species, as required in the Burrowing Owl Mortality Reduction Plan. Habitat enhancement activities may include, but are not limited to, native species planting and invasive plant management.

**8 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 7 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

8.3 Security Amount. The Security shall be in the amount of **\$7,991,516.00** or in the amount identified in Condition of Approval 7.1 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 7.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

8.4 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.

8.5 Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or

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within 30 days after the effective date of this ITP, whichever occurs first.

- 8.6 Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 8.7 Security Transmittal. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 8.8 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.
- 8.9 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:

Habitat Management Land Acquisition (HMLA)

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

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

#### **IX. Amendment:**

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

#### **X. 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

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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.

#### **XI. 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.

#### **XII. Notices:**

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 (2081-2025-025-06) 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  
3602 Inland Empire Blvd, Suite C-220  
Ontario, CA 91764  
(760) 614-5098  
[Heidi.Calvert@wildlife.ca.gov](mailto: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

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[CESA@wildlife.ca.gov](mailto: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:

Lily Mu, Senior Environmental Scientist (Specialist)  
 3602 Inland Empire Blvd, Suite C-220  
 Ontario, CA 91764  
 Telephone (909) 544-2521  
[Lily.Mu@wildlife.ca.gov](mailto:Lily.Mu@wildlife.ca.gov)

### **XIII. Compliance with CEQA:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Imperial County Planning and Development Services Department. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the VEGA SES 2, 3, and 5 Solar Energy Project Final Environmental Impact Report (SCH No.: 2021050013), dated August 2023, that the County of Imperial Planning and Development Services Department certified for Vega 5 Solar Energy System Project on October 24, 2023. At the time the lead agency certified the Final EIR and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Final 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.

### **XIV. 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, VEGA SES 2, 3, and 5 Solar Energy Project Final Environmental Impact Report, the results of the site visit on May 20, 2025, the consultations on March 10, 2025 and June 17, 2025, and the administrative record of proceedings,

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that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 663.88 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) 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.

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**XV. Attachments:**

FIGURE 1	Map of Project
FIGURE 2	Project Components
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 1/6/2026**

DocuSigned by:  
  
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Heidi Calvert, Regional Manager  
Inland Deserts Region  
[Heidi.Calvert@wildlife.ca.gov](mailto:Heidi.Calvert@wildlife.ca.gov)  
[R6CESA@wildlife.ca.gov](mailto:R6CESA@wildlife.ca.gov)

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