



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

California Endangered Species Act
Incidental Take Permit No. 2081-2025-008-06

VILA BORBA OFF-SITE DETENTION BASIN IMPROVEMENT 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:	Lennar Homes of California, LLC
Principal Officer:	Bryce Flemming, Project Manager
Contact Person:	Wade Caffrey, (949) 489-2700
Mailing Address:	4140 Temescal Canyon Road, Suite 410 Corona, CA 92883

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 **April 30, 2031**.

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 7.8 of this ITP.

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

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

III. Project Location:

The Vila Borba Off-Site Detention Basin Improvement Project (Project) encompasses approximately 3.53 acres located at the western intersection of Butterfield Ranch and Park Crest Drive, in the City of Chino Hills, San Bernardino County (Figure 1: Project Location). The Project site is bordered by undeveloped land and open space, with a residential neighborhood situated to the east. The site is approximately 1.12 miles northwest of the Euclid Avenue interchange on California State Route 71, Latitude: 33.93770, Longitude: -117.67780; Assessor’s Parcel Number (APN) 1033-091-24.

IV. Project Description:

The Project includes the development of the off-site detention basin designed to provide flood protection for the adjacent Vila Borba Community (Figure 2: Project Vicinity). Project implementation requires slope grading, vegetation removal and replacement of drainage ditch, and includes the installation of: an expanded concrete apron, two maintenance gates, split-rail vinyl fence, three drainage ditches, a retaining wall, retrofit drainage restriction steel doors, concrete forebay with outlet riser, a catch basin with secondary overflow, a paved access road, rip rap installation and removal of existing riprap, trash racks, a 72 inch-reinforced concrete pipe (Figure 3: Project Design). Two debris staging areas and stockpile location are proposed on the southeastern end of the Project site.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. Least Bell’s Vireo (<i>Vireo bellii pusillus</i>)	Endangered ⁴
2. Crotch’s Bumble Bee (<i>Bombus crotchii</i>)	Candidate ⁵

These species and only these species are 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 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; handling of stockpiles and stored materials; soil compaction; vegetation clearing and maintenance (grading, mowing, and grubbing); paving and concrete work and landscape installation; as well as other development activities related to the Project (Covered Activities).

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

⁴ See Cal. Code Regs. Tit. 14 § 670.5, subd. (a)(5)(I).

⁵ 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.

The Project is expected to cause the permanent loss of 3.53 acres of habitat for the Covered Species, including 0.70 acres of riparian habitat, 1.64 acres of Riversidean sage scrub, and 1.19 acres of nonnative/disturbed Riversidean sage scrub habitat. The areas where authorized take of the Covered Species is expected to occur include: the entire Project Site.

Least Bell's Vireo (LBVI)

Incidental take of LBVI in the form of mortality ("kill") may occur as a result of Covered Activities such as habitat removal, as well as the effects from lighting, vibration, and noise. 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). Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of displacement from preferred habitat, increased competition for food and nesting substrate, and increased vulnerability to predation and parasitism.

Crotch's Bumble Bee (CBB)

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, 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.

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 salvage and capture/release 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

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authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species or Covered Species' habitat in the Biological Resources section of the Environmental Impact Report (SCH No.: 2004081134) certified by City of Chino Hills on April 25, 2006 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
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. 1600-2020-0026-R6) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to LBVI in the Biological Opinion for the Vila Borba Off-Site Detention Basin Project, City of Chino Hills, San Bernardino County, California (WS-2026-0020083_S7_SB) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **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.
6. **General Provisions:**
 - 6.1. 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.
 - 6.2. Designated Biologist(s), and/or Biological Monitor(s). At least 30 days before starting Covered Activities, 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 DFW 820 (Attachment 2; or available for download at: [CDFW Biologist Resume Form DFW 820](#)). Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the

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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 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.

- 6.3. 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 Area 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.
- 6.4. 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.
- 6.5. 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 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.

- 6.6. 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 predators such as ravens, coyotes, and feral dogs.
- 6.7. 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.
- 6.8. 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.
- 6.9. Pesticide Use.** Permittee shall not use pesticides, including herbicides, insecticides, or rodenticides within the Project Area and mitigation lands 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.
 - 6.9.1.** 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 adjuvants that contain alkylphenol ethoxylates because these have been shown to be toxic to bees and increase the toxicity of the pesticides it is combined with. 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 treatments, decrease the likelihood for pesticide resistance, the

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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.

- 6.9.2.** Permittee shall avoid spraying herbicide 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 vegetative 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 Covered Species is not active.⁶ The Colony Active period typically occurs during the early hours of the morning, at night, or during cold and rainy weather, but can vary based on the observations made by the Designated Biologist. As a result, the Designated Biologist shall coordinate with the Permittee to determine an optimal period of the day for pesticide distribution. Appropriate weather conditions and other application best management practices, as well as label precautions, shall always be followed.
- 6.10. 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.
- 6.11. 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.
- 6.12. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species’ habitat.
- 6.13. 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

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.

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.

- 6.14. 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 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 6.13 of this ITP.
- 6.15. 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.
- 6.16. 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 mitigation measures set forth in this ITP.
- 6.17. 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.
- 6.18. 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 8.8.
- 6.19. 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)

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 *Phythophthora* spp. within the Project Area.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. 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.
- 7.2. 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.
- 7.3. Daily Compliance Monitoring.** The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to:
- (1) minimize incidental take of the Covered Species;
 - (2) prevent unlawful take of species;
 - (3) check for compliance with all measures of this ITP;
 - (4) check all exclusion zones; and
 - (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

- 7.4. 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.
- 7.5. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.2, 7.3 and 7.4 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 Lisa Cardoso (Lisa.Cardoso@Wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.6. 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 7.5; (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 both temporary and 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.
- 7.7. CNDDDB Observations.** The Designated Biologist(s) 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(s) shall submit a notification of observation (including species name, date of observation and GPS coordinates) by email to the CDFW Regional Representative (Lisa.Cardoso@Wildlife.ca.gov) and the Wildlife Diversity Program (wildlifemgt@wildlife.ca.gov) within 24 hours of observation.
- 7.8. 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.

7.9. 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 Lisa.Cardoso@Wildlife.ca.gov and 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 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.

7.9.1. Crotch's Bumble Bee Salvage. If a Crotch's bumble bee is accidentally killed during survey efforts, the carcass shall be photographed in situ, salvaged 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., 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 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

8. 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:

8.1. 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:

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8.1.1. 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

8.1.2. All construction lighting used shall be yellow or orange lighting; and

8.1.3. Light shall not be allowed to shine directly into areas where Covered Species nests are known to occur.

8.2. 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 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).

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8.3. Monitoring. The Designated Biologist shall conduct daily monitoring of the Project Area and a 500-foot buffer when Covered Activities are occurring during the Covered Species typical nesting season (March 15 - August 15). If nesting activity (e.g., nest building, incubation, or feeding) is observed, the Designated Biologist shall establish a buffer adequate to avoid nest disturbance and monitor the Covered Species nesting behavior and noise from the edge of an individual's territory that is nearest to where the construction noise is originating. Using a noise meter, different sound level descriptors may be applied given the type of construction that is occurring, including:

- A-weighted Sound Level (instantaneous) for noise measurements and prediction purposes;
- Maximum Sound Level (Lmax) during a single event for noise measurements and prediction purposes;
- Sound Exposure Level (SEL) that describes the average sound level from a single noise event for noise measurements and prediction purposes (equivalent to Leq but normalized to a time base of 1 second);
- Equivalent Sound Level (Leq) which is an exposure-based metric (time/number of events) to describe a receiver's cumulative noise exposure from all events over a

specified period of time for compliance assessment purposes (e.g., 1 hour, 16-hour day, 8-hour night or 24-hour day).

8.4. Buffer Modification. If the Designated Biologist(s) determines that the Project is adversely affecting/altering the Covered Species behavior, CDFW shall be notified and various techniques implemented to address the Project-related disturbances, including: (1) increasing or reestablishing a nest buffer; (2) placement of temporary noise barriers or enclosures around stationary noise generating equipment (5 to 15 decibel reduction possible); (3) strategic placement of noise attenuation structures (e.g. hay bales, etc.); and/or (4) noise attenuation measures (e.g., reducing the number of construction vehicles or using different types of construction vehicles; reducing the number of noisy activities that occur simultaneously). The buffer may be reduced based on the intensity of construction activities, construction noise levels, disturbance levels in the area not attributable to construction, and observed behavior of individual birds. Any buffer adjustment shall be submitted by the Designated Biologist(s) and reviewed and approved by CDFW.

8.5. Noise Minimization. To avoid noise impacts, the Permittee shall:

- Place sound barriers (e.g., plywood, hay bales, etc.) between the Project and the Covered Species to attenuate Project activities;
- Minimize noise within different strata of the riparian canopy by implementing noise suppression devices and techniques;
- Equip all internal combustion engine-driven equipment with mufflers, air-inlet silencers, shrouds, shields, or other noise-reducing features that are in good operating condition.
- Ensure “quiet” models of air compressors and other stationary noise sources where such technology exists.
- Use electrically powered equipment instead of pneumatic or internal combustion-powered equipment, where feasible.
- Locate stationary noise-generating equipment, construction parking, and maintenance areas as far as reasonable from Covered Species habitat.
- Prohibit unnecessary idling of internal combustion engines (i.e., in excess of 5 minutes).
- Reduce construction vehicle back-up alarms to the minimum required to provide safety to the personnel at the job site.

8.6. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife

rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.9. The Notification shall include the name of the facility where the animal was taken.

Crotch's Bumble Bee

- 8.7. 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; varies based on location/year and can be confirmed via Pre-Construction Surveys) each year until the expiration of this ITP. 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 retain 1/3 of flowering vegetation in the Project Area, leaving areas of floral resources as refugia for foraging Covered Species, waiting until bloom has ceased, or demonstrate the presence of sufficient floral resources adjacent to the site to allow for total removal. 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 8.10 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.

- 8.8. 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, if approved by CDFW, only occurs when Covered Species are dormant or when flowers are no longer in bloom. See Condition of Approval 6.9.

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

- 8.9. Covered Species Pre-Construction Survey Plan.** If Covered Activities are proposed to occur during the Queen Flight Season, Colony Active Period, and Gyne Flight Season (approximately February 1 through October 31), 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, or as otherwise approved by CDFW. The Pre-Construction Survey Plan shall require the Designated Biologist(s) to survey the Project area and an additional 50-ft buffer beyond the Project area. The Survey Plan shall also detail the number of surveys that will be conducted, when the surveys are planned to take place (i.e., season, time of day, and how much time between surveys; typically 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), what type of habitat will be surveyed for (i.e., foraging, nesting, and/or overwintering), survey method(s), and potential nesting sites (i.e., floral and non-floral resources, mammal burrows). When preparing the Pre-Construction Survey Plan, CDFW recommends reviewing, [Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species \(June 6, 2023\)](#), as a guideline. If additional habitat information needs to be collected, consider adopting the California Bumble Bee Atlas (CABBA) guidance for Habitat Surveys. Pre-construction surveys must be completed no more than 3 weeks prior to the initiation of ground disturbing activities with 1 hour of survey effort per 3 acres of suitable habitat. 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. 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. I
- 8.10. 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 8.9). 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. If a suspected or confirmed Covered Species or species nest is detected within the Project Area, Permittee shall record the GPS location of the sighting and immediately contact the CDFW Regional Representative by phone (909-484-0167) or email (Lisa.Cardoso@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 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).

Determination of a nest senescing can be made after the completion of three (3) consecutive, hour-long survey days to monitor any potential activity, where the presence of males/gynes are documented.

8.11. Covered Species Check. 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 8.9). In all other areas (e.g., areas of existing ground disturbance and those lacking floral resources), 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 and intermittently throughout the daily work window.

8.12. Onsite Open Space Area. Any activity or impact within the area identified by the Permittee as Open Space shall be submitted to CDFW for approval and may require amendment of this ITP to address additional take, not authorized in this ITP.

9. Habitat Management Land 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 the restoration and management of 4.71 acres of Covered Species habitat (Habitat Management (HM) lands) within the existing Conservation Easements recorded for the greater Vila Borba Community Plan (Attachment 3: Proposed Mitigation Area), pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. Funding for perpetual management 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 10 below for all uncompleted obligations.

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

9.1.1. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.2 below, estimated at **\$28,566.57**; including.

9.1.2. Interim management period funding as described in Condition of Approval 9.2.3 below, estimated at **\$49,323.97**;

9.1.3. Long-term management funding as described in Condition of Approval 9.3 and 9.6 below, estimated at \$55,515.64/acre for 4.71 acres: **\$261,478.66**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.4. 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 9.4, estimated at **\$8,800.00**.

9.1.5. 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 **\$75,000.00**.

9.2. Habitat Management Lands Restoration and Management. Permittee shall provide for the restoration and perpetual management of 4.71 acres of HM lands to complete compensatory mitigation obligations, as follows:

9.2.1. 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. The grantee for the conservation easement cannot serve as the interim or long-term manager.

9.2.2. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and restoration 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.

9.2.3. 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 Long-Term Management Plan (LTMP; Condition of Approval 9.6) and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the initiation of HM land restoration and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final LTMP 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 a CDFW-approved entity for payment to the land manager.

9.3. Endowment Fund. 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 LTMP 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 plans required by Condition of Approval 9.5 and 9.6. 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 LTMP. 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 LTMP. Such activities shall be funded through the Endowment.

- 9.3.1. 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).

- 9.3.2. Calculate the Endowment Funds Deposit.** After obtaining CDFW written approval of the HM lands, final LTMP, 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.

- 9.3.2.1. 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.

- 9.3.2.2. 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:

9.3.2.2.1. 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.

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

9.3.2.2.3. 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.

9.3.3. 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.

9.3.4. 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.

- 9.4. 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.
- 9.5. Habitat Mitigation and Monitoring Plan.** Permittee shall restore the 4.71-acres of HM lands to offset the 3.53-acres of habitat that will be permanently impacted by Covered Activities. After restoration activities, the HM lands will be maintained and monitored for five years, or until the HMMP's success criteria (defined below) have been met, whichever is longer. Within the HM lands, a minimum of 2.33-acres of Riversidean sage scrub and 2.38-acres of riparian habitat shall be restored through the installation of local native stock in pre-designate patches (Condition of Approval 9.5.6). The planting palette shall include a list of native plant species and their associated blooming periods (i.e, early, mid, and late). Permittee shall also remove nonnative vegetation and disperse native seed mix, free of pesticides, and conduct other natural restoration/revegetation actions. Proposed restoration actions shall be approved by CDFW in writing. Restoration 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, 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 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:

- 9.5.1. Covered Species Habitat Avoidance Plan and Point Surveys.** If restoration activities are proposed to occur when Covered Species may be present, Permittee shall develop a

Covered Species Avoidance Plan and submit it to CDFW for approval no less than 60 days prior to the initiation of ground disturbing restoration activities, or as otherwise approved by CDFW. The Covered Species Avoidance Plan (Avoidance Plan) shall require the Designated Biologist(s) to survey the HM Lands and an additional 50-ft buffer beyond the HM Lands. The Avoidance Plan shall also detail the number of surveys that will be conducted, when the surveys are planned to take place (i.e., season, time of day, and how much time between surveys; for Crotch's bumble bee surveys are typically 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), what type of habitat will be surveyed for (i.e., foraging, nesting, and/or overwintering), survey method(s), and potential nesting sites (i.e., floral and non-floral resources, mammal burrows). The Avoidance Plan shall also include: (1) avoidance methodologies (e.g., environmental awareness training, biological monitoring, buffers, noise reduction, vegetation management protocols, flagging, and etc.) to be implemented if a Covered Species is identified prior to and/or during restoration activities; (2) avoidance methodologies to be enacted if negative observations of Covered Species are detected; and (3) reporting requirements.

9.5.2. 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 (sites within intact natural habitat that will be used as a model for restoration activities). Each treatment-reference 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 reference sites. Permittee shall ensure that data collection and analysis methodologies are appropriate to document post-restoration 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 reference 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 reference sites to guide restoration 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 sampling

9.5.3. Pollen and Nectar Resources. The HMMP shall include a list of pollen and nectar resources for use in restoration. The palette of locally native, drought tolerant species shall consist of at least three species that 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). 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. 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*.

9.5.4. 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 Riversidean sage scrub and riparian 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.

9.5.5. 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, or as otherwise approved by CDFW. 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 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.

9.5.6. 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.

9.5.7. Seeding. Seed mixes shall include only locally native species, including diverse assemblages of native flora, with an emphasis on Riversidean sage scrub and riparian mix. 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.. 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, or as otherwise approved by CDFW. 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.

9.5.8. Invasives. At minimum, the HMMP shall include that no more than 5 percent of the vegetation, or as otherwise approved in the HMMP, 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.

9.5.9. 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 photos of the restoration and reference site specified in Condition of Approval 9.5.2. Photo monitoring shall be done as follows:

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

9.5.9.2. 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 9.5.2, 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.

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

9.5.9.4. 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.

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

9.5.10. 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.

9.6. 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 have 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. 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.

- 10. 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 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
- 10.1. Security Amount.** The Security shall be in the amount of **\$423,169.20**. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9 above, sufficient for CDFW or its contractors to complete property enhancement, startup costs, initial management, long-term management, and monitoring.
 - 10.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 4: Letter of Credit Form) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
 - 10.3. 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.
 - 10.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
 - 10.5. 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.

10.6. 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.

10.7. 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 from CDFW that restoration of the HM lands, as outlined in the CDFW-approved HMMP, is complete;
- 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 initiate the required protection and restoration of all HM lands no later than 6 months from the initiation of Project Activities, and funding of the endowment no later than 18 months from the initiation of Project Activities. 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 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 (2081-2025-008-06) 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 Blvd., C-220
Ontario, CA 91764
Telephone: (909) 484-0523
R6CESA@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:

Lisa Cardoso
Inland Deserts Region

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3602 Inland Empire Blvd., C-220
 Ontario, CA 91764
 Telephone: (909) 484-0167
Lisa.Cardoso@Wildlife.ca.gov

XIII. 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 Vila Borba Planned Community Environmental Impact Report, and the Vila Borba Planned Community Addendum 2 to the Final Environmental Impact Report (SCH No.: 2004081134) dated June 1, 2005 and February 2025, respectively, that the City of Chino Hills certified for the Vila Borba Planned Community on March 18, 2025. At the time the lead agency certified the EIR and Addendum, 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 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, Vila Borba Planned Community EIR, 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

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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 restoration and management in perpetuity of 4.71 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.

XV. Attachments:

FIGURE 1	Project Location
FIGURE 2	Project Vicinity
FIGURE 3	Project Design
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form

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ATTACHMENT 3
ATTACHMENT 4

Proposed Mitigation Area
Letter of Credit Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 7/15/2026

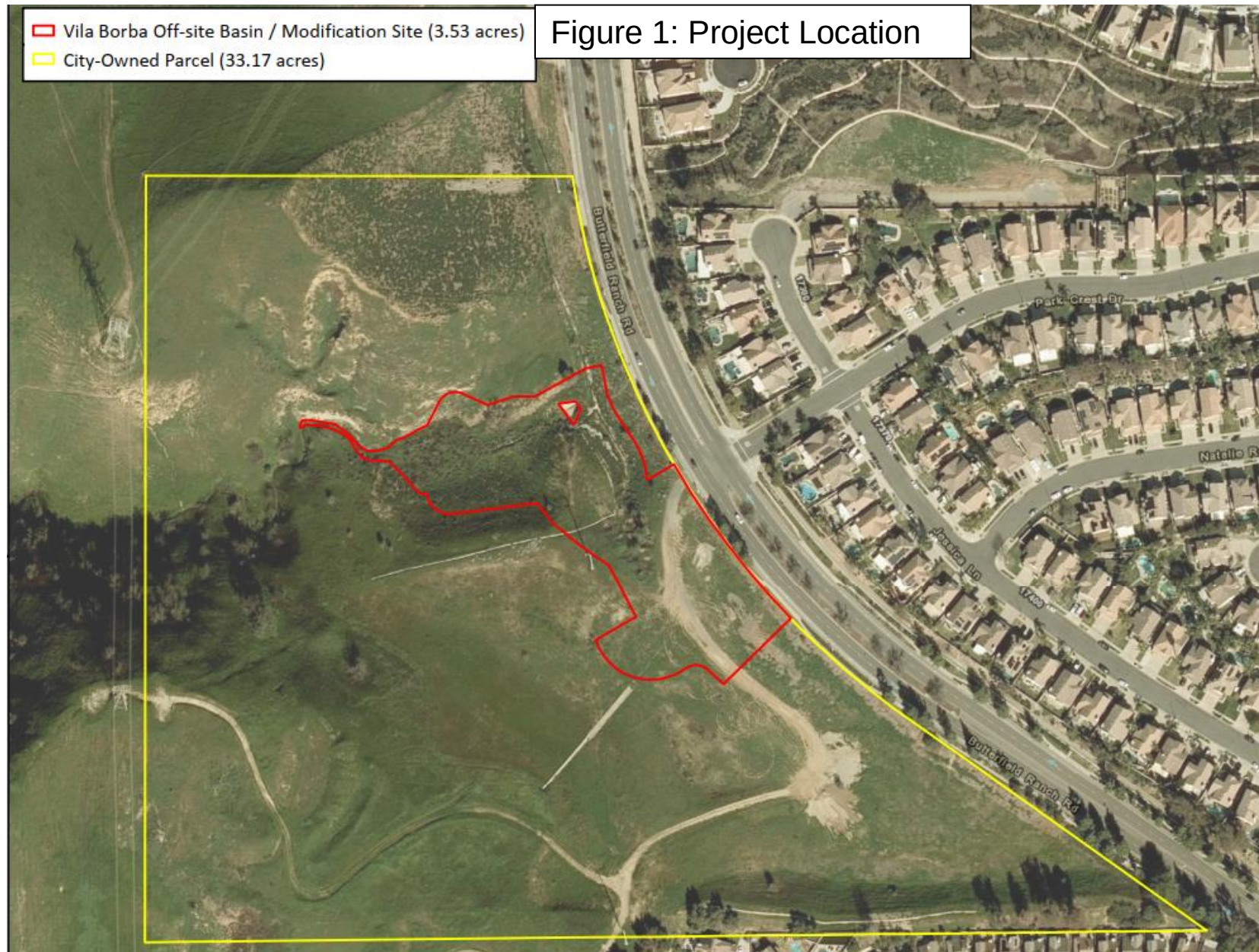
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Heidi Calvert

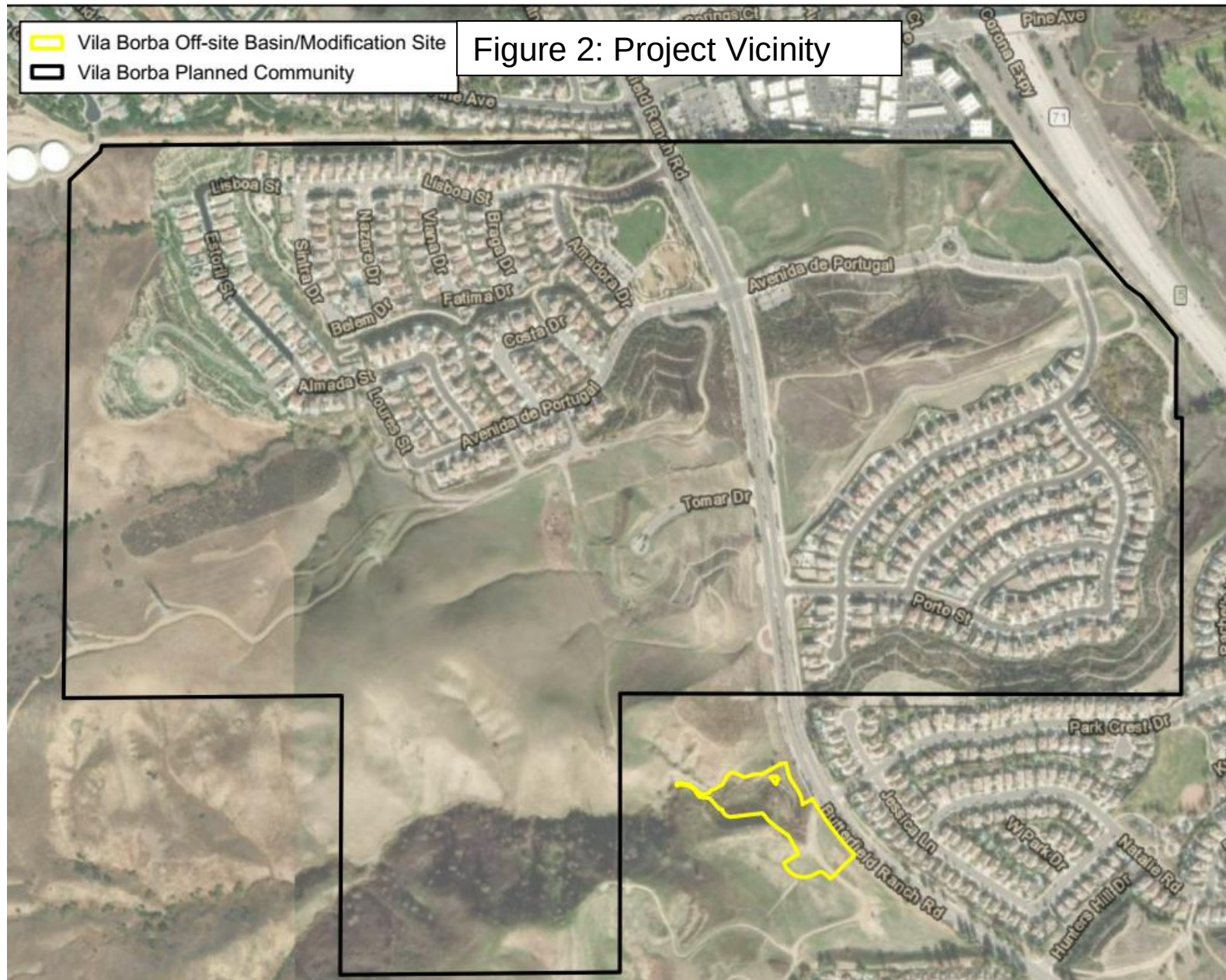
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Heidi Calvert, Regional Manager
Inland Deserts Region

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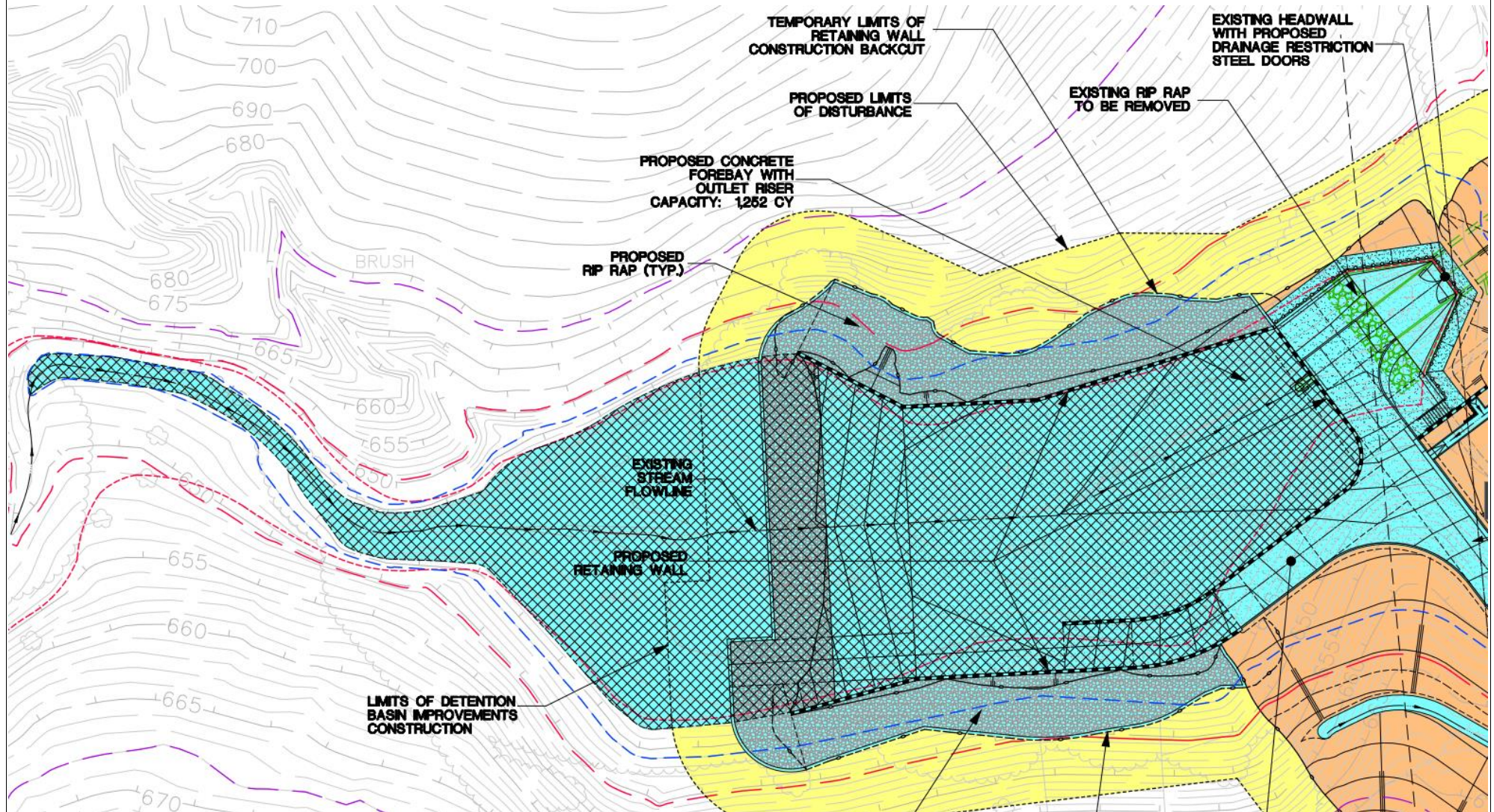
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	TEMPORARY CONSTRUCTION DISTURBANCE AREA : 0.84 AC
	GRADED AREA TO BE RETURNED TO NATURAL : 0.84 AC
	PERMANENT IMPACT : 143 AC
	DEBRIS STAGING AREA: 0.44 AC (PERMANENT IMPACT)
	DEBRIS COLLECTION MAINTENANCE AREA: 0.65 AC
	DEBRIS STAGING, TEMPORARY STOCKPILE
	EXISTING STREAM WATER SURFACE (100 YR. STORM)
	EXISTING BASIN MAXIMUM HIGH WATER LINE
	PROPOSED DETAINED WATER SURFACE (100 YR. STORM)
	PROPOSED TEMPORARY CONSTRUCTION FENCING
	PROPOSED SECONDARY OVERFLOW WATER SURFACE (1000 YR. STORM)

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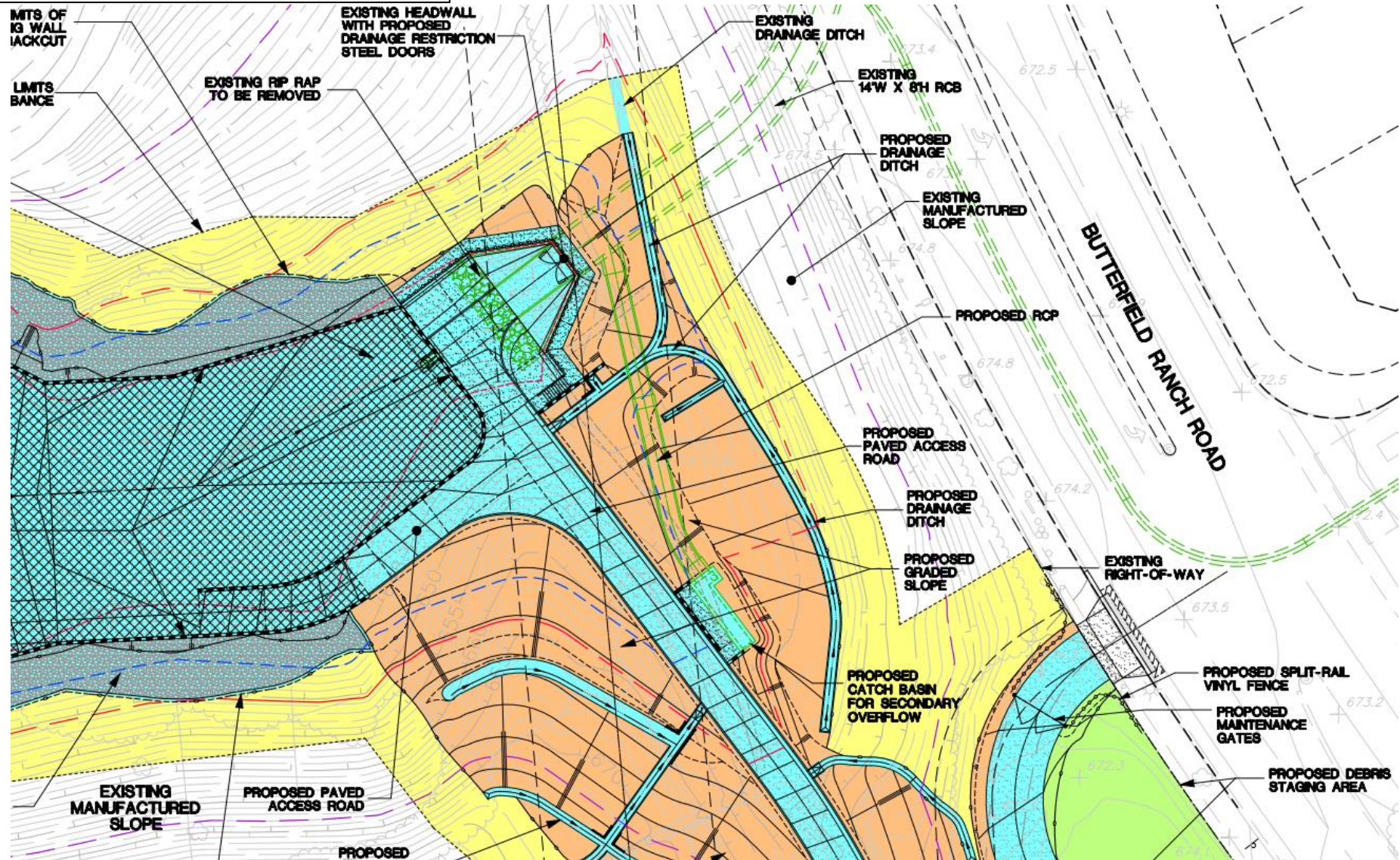
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Figure 3: Project Design, cont.



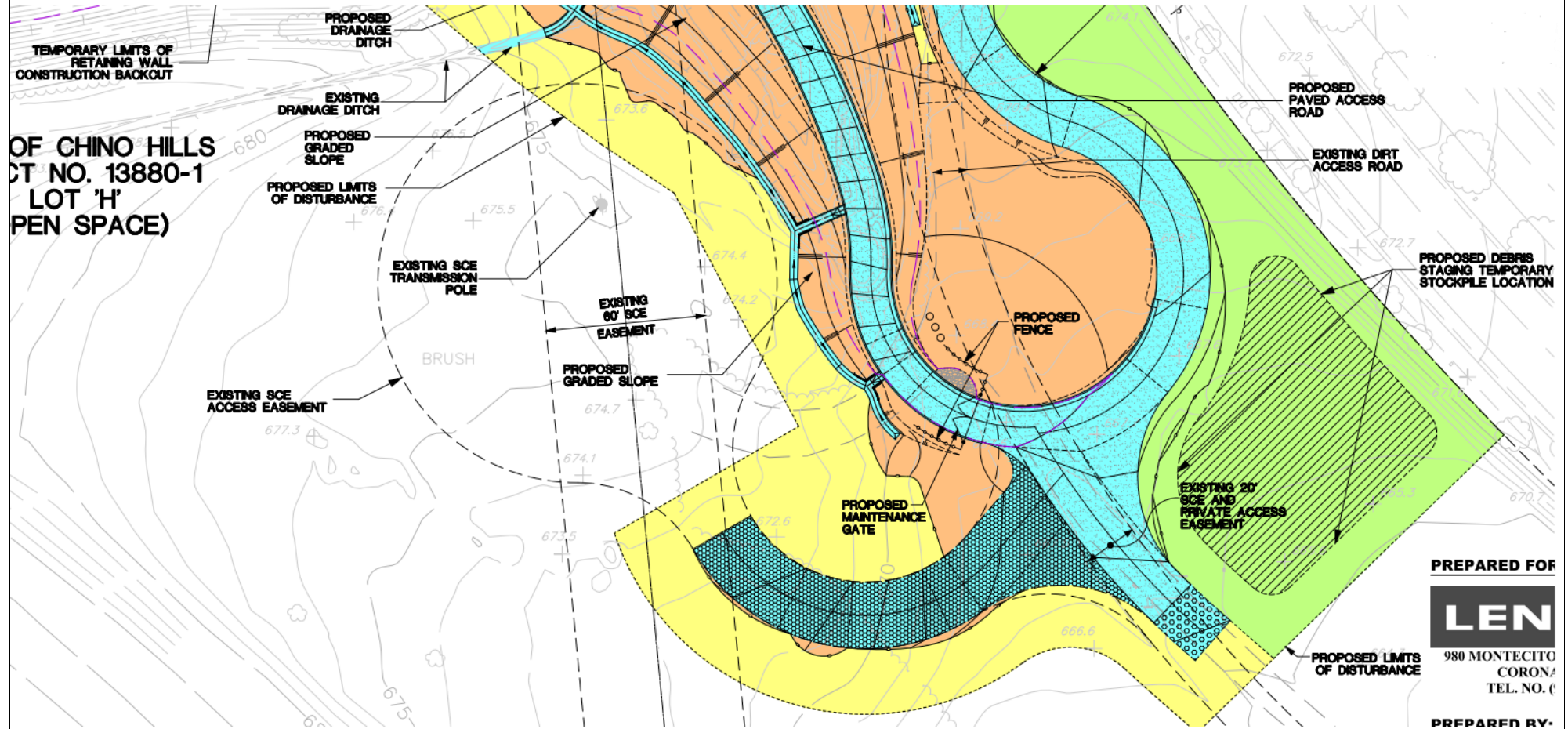
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Figure 3: Project Design, cont.



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Figure 3: Project Design, cont.



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