RESOLUTION NO. 2023-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING THE RECORDING OF A CONSERVATION EASEMENT TO MITIGATE IMPACTS OF THE IMJIN PARKWAY WIDENING PROJECT PURSUANT TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE INCIDENTAL TAKE PERMIT # 2081-2019-007-04 ON PROPERTIES CONSISTING OF ACCESSOR'S PARCEL NUMBERS #031-101-039, 031-101-041, AND 031-101-056 FOR APPROXIMATELY 61.5± ACRES SUBJECT TO FINAL REVIEW BY LEGAL COUNSEL, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTATION ON BEHALF OF THE CITY COUNCIL SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, at the regular meeting of February 5, 2019, the City Council adopted Resolution No. 2019-11, accepting the Initial Study/Mitigated Negative Declaration for the Imjin Parkway Widening Project ("Project") completing the California Environmental Quality Act (CEQA) process, and;

WHEREAS, on March 4, 2019, Caltrans determined that the project is a Categorical Exclusion under the National Environmental Protection Act (NEPA), and;

WHEREAS, within the approximately 29.6 acres of soil disturbance due to the project are areas of potential sand gilia habitat. Sand gilia is a protected species under California law and is subject to permitting to ensure that any take of sand gilia is mitigated. Project biologists surveyed the project area for the presence of sand gilia June 1-2 and August 29, 2017, April 19-20 and May 17-19, 2018, and April 26 through April 28 and on May 5, 2021. Any sand gilia observed during the gilia flowering seasons was documented and the information was included in permit applications. The City applied for an Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) in February of 2019, and;

WHEREAS, on December 21, 2022, CDFW issued to the City the California Endangered Species Act Incidental Take Permit No. 2081-2019-007-04 for the Project, and;

WHEREAS, the ITP requires permanent protection and management of 47.5 acres of occupied sand gilia habitat to serve as compensatory mitigation for the impacts of development and construction of the Project. The City has proposed that the compensatory mitigation site be within City-owned properties: APNs #031-101-039, 031-101-041, and 031-101-056 as shown on **Exhibit A**, and;

WHEREAS, as part of the ITP issued by CDFW, the City has identified the three entities to support Habitat Management Lands for the mitigation of the sand gilia take. Per Government Code §§ 65965-65968, a separate *Land Manager*, mitigation funding *Endowment Holder*, and *conservation Easement Grantee*. No take of sand gilia can occur on the project before the compensatory mitigation site's long-term management plan is approved by CDFW, the endowment is funded, and the Conservation Easement is recorded, and;

WHEREAS, at the regular meeting of November 1, 2022, the City Council adopted Resolution No. 2022-132, approving a mitigation services agreement with the Big Sur Land Trust (BLST) to serve as the Conservation Easement Holder (Easement Grantee) for the Project. On May 2, 2023, CDFW provided written approval for BSLT to serve as Easement Grantee for the Project, and;

Resolution No. 2023-70 Page 2

WHEREAS, the City as landowner is proposed to serve as the Land Manager with Denise Duffy & Associates as the certified biologist to oversee management under contract. The National Fish and Wildlife Foundation (NFWF) is proposed to serve as the Endowment Holder on the Project once a Recipient Agreement is approved through the Easement Grantee, Endowment Holder, the City Attorney, and CDFW and the stewardship endowment is approved through the Easement Grantee and the City Attorney, and;

WHEREAS, all fees associated with this action are available within the already approved budget for the Imjin Parkway Widening Project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

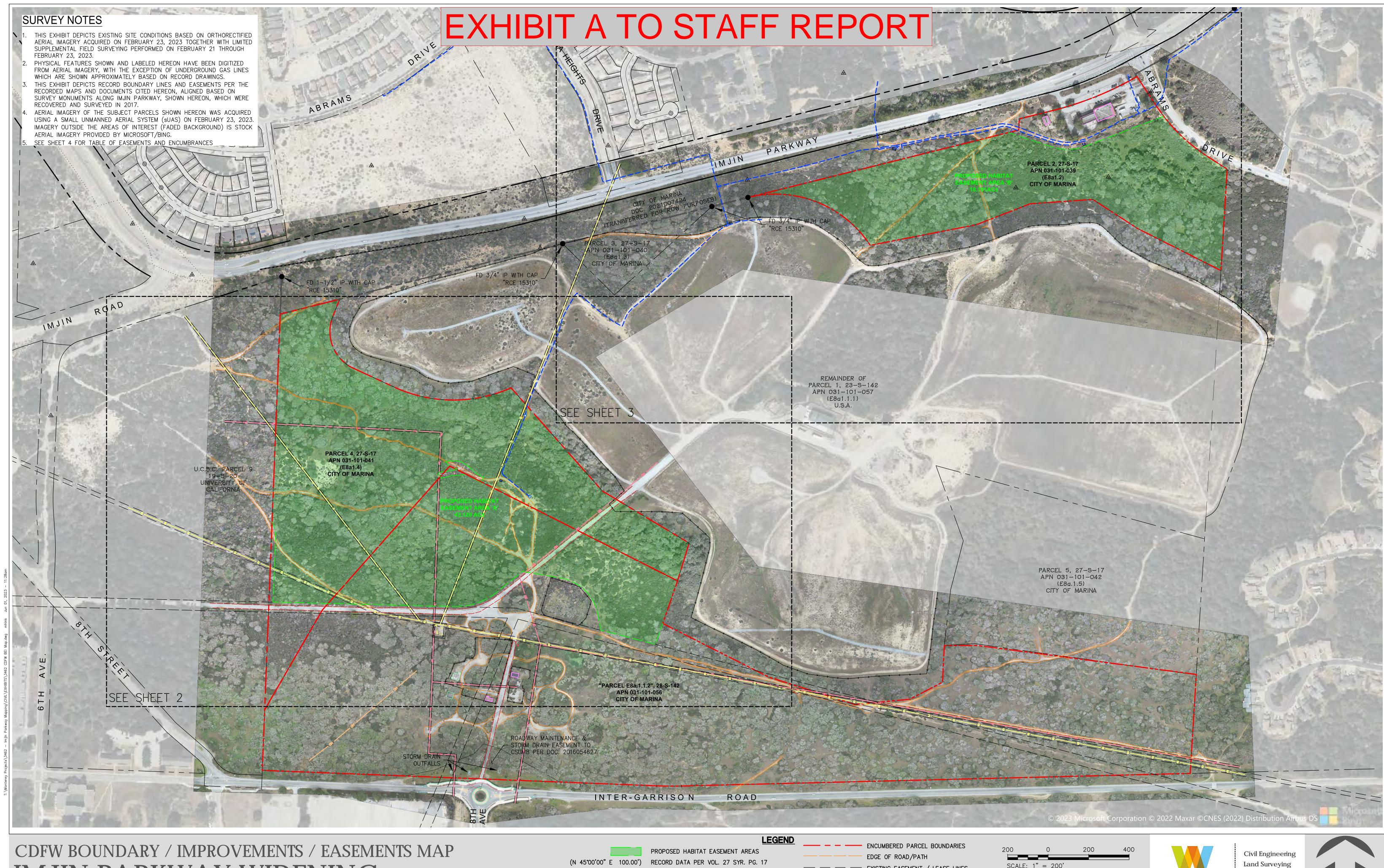
- 1. Approve the recording of a Conservation Easement to mitigate impacts of the Imjin Parkway Widening Project pursuant to California Department of Fish and Wildlife Incidental Take Permit # 2081-2019-007-04 on properties consisting of Accessor's Parcel Numbers #031-101-039, 031-101-041, and 031-101-056 for approximately 61.5± acres subject to final review by legal counsel, and;
- 2. Authorize the City Manager to execute the agreement on behalf of the City Council subject to final review and approval by the City Attorney.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 5th day of July 2023, by the following vote:

AYES: COUNCIL MEMBERS: Visscher, McCarthy, Biala, Medina Dirksen

NOES: COUNCIL MEMBERS: None ABSENT: COUNCIL MEMBERS: Delgado ABSTAIN: COUNCIL MEMBERS: None

ATTEST:	Cristina Medina Dirksen, Mayor Pro Tem
Anita Sharp, Deputy City Clerk	



IMJIN PARKWAY WIDENING

MARINA, CALIFORNIA

[N 45°00'00" W 100.00'] RECORD DATA PER VOL. 28 SUR. PG. 142

EXISTING EASEMENT / LEASE LINES OVERHEAD UTILITY LINES UNDERGROUND GAS LINES

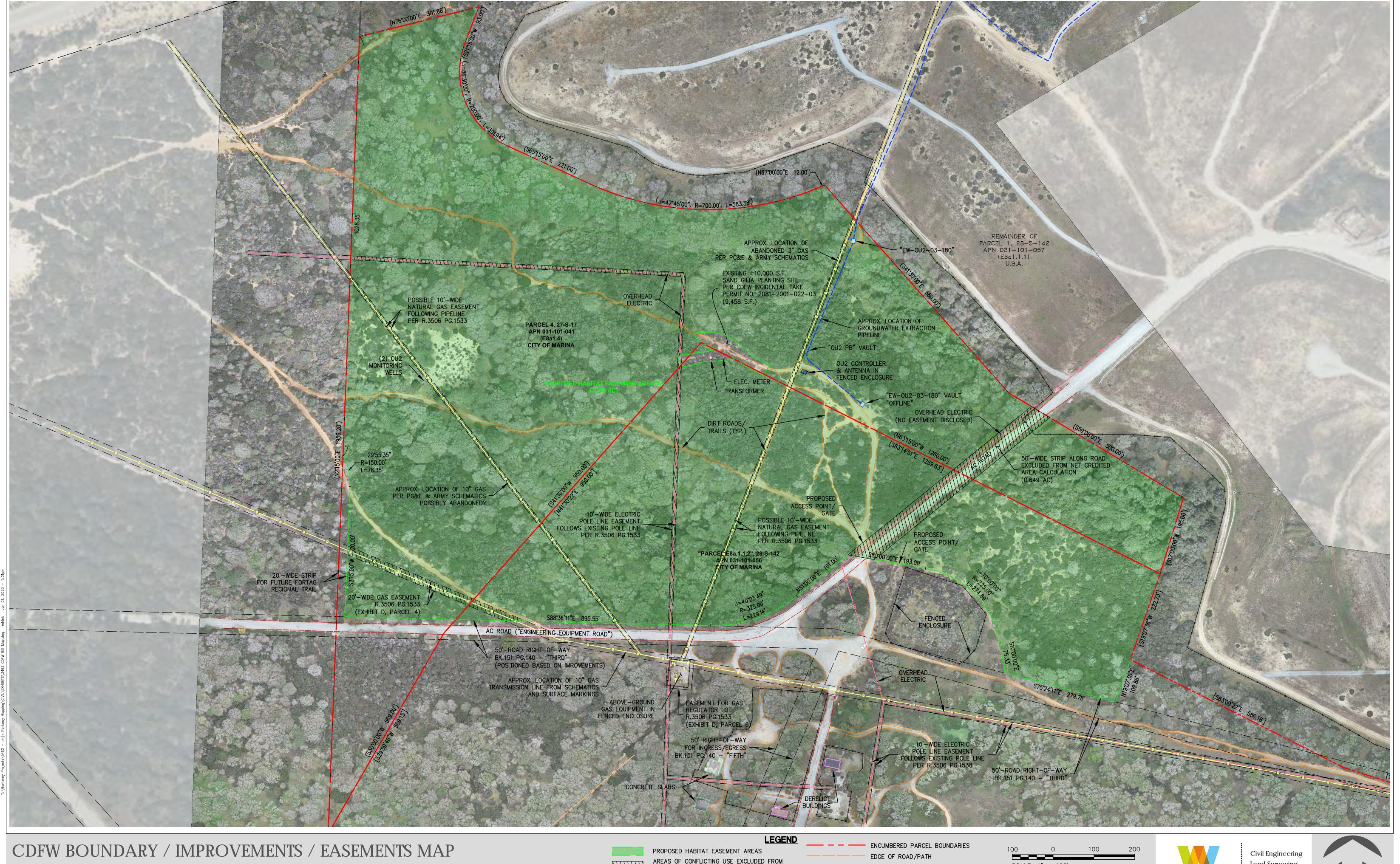
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Project No.:3462.02



6 Harris Court whitsonengineers.com



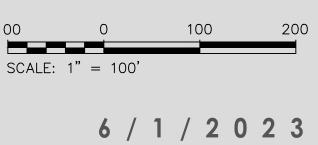


IMJIN PARKWAY WIDENING MARINA, CALIFORNIA

[N 45°00'00" W 100.00'] RECORD DATA PER VOL. 28 SUR. PG. 142

AREAS OF CONFLICTING USE EXCLUDED FROM CALCULATION OF MITIGATION AREA CREDITED (N 45°00'00" E 100.00') RECORD DATA PER VOL. 27 SYR. PG. 17

EXISTING EASEMENT / LEASE LINES OVERHEAD UTILITY LINES UNDERGROUND GAS LINES ---- GROUNDWATER PIPELINES



Project No.:3462.02

Whitson ENGINEER\$

Land Surveying 6 Harris Court whitsonengineers.com

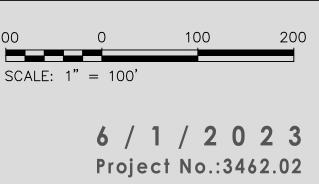




CDFW BOUNDARY / IMPROVEMENTS / EASEMENTS MAP IMJIN PARKWAY WIDENING MARINA, CALIFORNIA

PROPOSED HABITAT EASEMENT AREAS AREAS OF CONFLICTING USE EXCLUDED FROM CALCULATION OF MITIGATION AREA CREDITED (N 45°00'00" E 100.00') RECORD DATA PER VOL. 27 SYR. PG. 17 [N 45°00'00" W 100.00'] RECORD DATA PER VOL. 28 SUR. PG. 142

EDGE OF ROAD/PATH EXISTING EASEMENT / LEASE LINES OVERHEAD UTILITY LINES UNDERGROUND GAS LINES ---- GROUNDWATER PIPELINES



Whitson ENGINEER\$

Civil Engineering Land Surveying whitsonengineers.com



TABLES OF EASEMENTS AND ENCUMBRANCES (AS IDENTIFIED BY PRELIMINARY TITLE REPORTS REFERENCED)

Per Preliminary	Title Report by First Americ	can Title Company		
Order Number:		an me company		
Dated August				
Darca / logosi	10, 2022			
Exception #	Document Reference	Description	Surveyor Comments	
1	N/A	2022-2023 Taxes	Not Plottable	
2	N/A	2021-2022 Taxes	Not Plottable	
3	N/A	Proposed Community Facilities District No. 2014-1 (Clean Energy)	Not Plottable	
4	N/A	Proposed Community Facilities District No. 2016-01	Not Plottable	
5	N/A	Supplemental Taxes	Not Plottable	
6	Vol. 19 Sur. Pg. 1	"The effect of a map"	Survey of Fort Ord Perimeter Boundary	
7	Vol. 23 Sur. Pg. 94	"The effect of a map"	Survey of 2 parcels in Fort Ord. Subject property is within Parcel 1.	
8	2001-090792 2001-090793 2001-094583	Water & Wastewater Easements of former Fort Ord	Blanket easements over (now) MCWD facilities. None kno to exist within parcel	
9	2002-028022	Property lies within Fort Ord Redevelopment Project Area	Not Plottable	
10	2002-048597	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
11	2004-103512	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
12	2006-045190	Terms and provisions of a quitclaim deed (Army to FORA)	Reserves mineral rights to USA	
13	2006-078031	Terms and provisions - quitclaim of Parcels E8a.1.2, E8a.1.3 (FORA to Monterey County RDA)	Terms of Quitclaim Affecting Entire Property - Not Plottable	
14	2009-035680	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
15	2009-060251	"Agreement to Implement a Mitigation Monitoring and/or Reporting Plan"		
16	2019-060808	"The effect of a deed" - Grant deed from Monterey County RDA Successor Agency to the County of Monterey	Terms of Grant Deed Affecting Entire Property - Not Plottable	
17	2020-069789	Conveyance Agreement	Not Plottable	
18	2021-007434	"The effect of a deed" (Grant from Monterey County to Marina)	Terms of Vesting Deed for this Parcel - Not Plottable	
19	N/A	Challenges arising by adoption of ABx1 26 or subsequent legislation including AB1484 By State of California.	Not Plottable	
20	N/A	Inquiry regarding unrecorded liens or other indebtedness	Not Plottable	
21	N/A	Water rights	Not Plottable	
22	N/A	Facts disclosed by a correct ALTA/NSPS survey.	Not Applicable - No ALTA Survey Performed	
23	N/A	ALTA/NSPS Survey	Not Applicable - No ALTA Survey Performed	
24	N/A	Rights of public to land lying within any Road, Street, Alley or Highway	No public roads of record within subject property	
25	N/A	Rights of parties in possession	Not Plottable	

APN 031-	C DISTRIBUTE OF THE STREET			
	Title Report by First Americ	can Title Company		
Order Number:				
Dated Septemb	per 22, 2022			
F	Da average Dafaverage	Daniel Par	\$	
exception #	Document Reference		Surveyor Comments	
1	N/A	Taxes	Not Plottable	
2	N/A	Proposed Community Facilities District No. 2014-1 (Clean Energy)	Not Plottable	
3	N/A	Proposed Community Facilities District No. 2016-1 (Clean Energy)	Not Plottable	
4	N/A	Supplemental Taxes	Not Plottable	
5	N/A	Any Unpaid Utility Fees - Monterey One Water	Not Plottable	
6	N/A	Established easements not disclosed of record	None disclosed. This map depicts existing improvements	
7	Bk. 151 Deeds Pg. 140	Road Easement to USA	Includes plotted 50'-wide easement for Engineer Equipment Roa	
8	R.1058 Pg.16	Easement for Gas Pipeline to PG&E	The document cited in the title report is obsolete, expired in 1985. This was superseded by a permanent easement following the Following, Reel 3506, Page 1533. That document describes a 26 easement as depicted on this map, along with easements covering existing facilities at the time of closure.	
9	Vol. 19 Sur. Pg. 1	"The effect of a map"	Survey of Fort Ord Perimeter Boundary. Map graphically depict easements per Exceptions #7 & #8	
10	Vol. 19 Sur. Pg. 15	"The effect of a map"	Survey of 8 parcels in Fort Ord. Subject properties not included be shown in periphery. Schematically depicts easements per exceptions #7 & #8	
11	Vol. 23 Sur. Pg. 94	"The effect of a map"	Survey of 2 parcels in Fort Ord. Subject property is within Parcel 1. Schematically depicts easements per exceptions #7 & #8	
12	2001-088380	Implementation Agreement	Not Plottable	
13	2001-090792 2001-090793 2001-094583	Water & Wastewater Easements of former Fort Ord	Blanket easements over (now) MCWD facilities. None known to exist within parcel	
14	Vol. 27 Sur. Pg. 17	"Easement shown or dedicated on the map"	The referenced map does not show or dedicate any easements. (Background topography including existing roads and trails is shown)	
15	2004-103512	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
16	2006-045190 2007-003370	Terms and provisions of a quitclaim deed (Army to FORA)	Reserves mineral rights to USA	
17	2007-058700	Terms and provisions - quitclaim of Parcels E8a.1.4 & E8a.1.5 (FORA to Monterey County RDA)	Terms of Quitclaim Affecting Entire Property - Not Plottable	
18	2009-035680	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
19	2020-069789	Conveyance Agreement	Not Plottable	
20	2021-007434	Terms and provisions - quitclaim deed (Monterey County to Marina)	This is the vesting deed for this parcel	
21	N/A	Property lies within Fort Ord Redevelopment Project Area	Not Plottable	
22	N/A	Rights of public to land lying withing any Road, Street, Alley or Highway		
23	N/A	Rights of parties in possession	Not Plottable	
24	N/A	Water rights	Not Plottable	
25	N/A	Undisclosed taxes	Not Plottable	
26	N/A	Facts, etc. discernable by inspection or inquiry	Not Plottable	
27	N/A	Easements not shown by public record	Not Plottable	
28	N/A	Boundary discrepancies, encroachments, etc. not of record	Shown hereon	

	Title Report by First Americ	an me company		
order Number:				
ated Septemb	per 22, 2022			
Exception #	Document Reference	Description	Surveyor Comments	
1	N/A	Taxes	Not Plottable	
2	N/A	Proposed Community Facilities District No. 2014-1 (Clean Energy)	Not Plottable	
3	N/A	Proposed Community Facilities District No. 2016-1 (Clean Energy)	Not Plottable	
4	N/A	Supplemental Taxes	Not Plottable	
5	N/A	Any Unpaid Utility Fees - Monterey One Water	Not Plottable	
6	N/A	Established easements not disclosed of record	None disclosed. This map depicts existing improvements	
7	Bk. 151 Deeds Pg. 140	Road Easement to USA	Includes plotted 50'-wide easement for Engineer Equipment Road	
8	R.1058 Pg.16	Easement for Gas Pipeline to PG&E	The document cited in the title report is obsolete, expired in 198. This was superseded by a permanent easement following the Fo Ord closure, Reel 3506, Page 1533. That document describes a 2 easement as depicted on this map, along with easements covering existing facilities at the time of closure.	
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12	Vol. 28 Sur. Pg. 142	"The effect of a map"	Survey of Subject Parcel. No easements shown.	
13	2001-088380	Implementation Agreement	Not Plottable	
14	2001-090792 2001-090793 2001-094583	Water & Wastewater Easements of former Fort Ord	Blanket easements over (now) MCWD facilities. None known to exist within parcel	
15	Vol. 27 Sur. Pg. 17	"Easement shown or dedicated on the map"	The referenced map does not show or dedicate any easements. (Background topography including existing roads and trails is shown)	
16	2006-056381	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
17	2006-056382 2006-059902 2007-033561	Terms and provisions of a quitclaim deed (Army to FORA)	Reserves mineral rights to USA	
18	2007-058699	Terms and provisions - quitclaim of Parcel E8a.1.1.2 (FORA to Monterey County RDA)	Terms of Quitclaim Affecting Entire Property - Not Plottable	
19	2009-035680	"Covenant to Restrict Use of Property Environmental Restriction"	Blanket Restrictions Affecting Entire Property - Not Plottalble	
20	2016-054627	Grant of Easement	Easement relating to construction of 8th Street Roundabout. Depicted on BIE Map. Does not affect proposed habitat easement area.	
21	2020-069789	Conveyance Agreement	Not Plottable	
22	2021-007434	Terms and provisions - quitclaim deed (Monterey County to Marina)	This is the vesting deed for this parcel	
23	N/A	Property lies within Fort Ord Redevelopment Project Area	Not Plottable	
24	N/A	Rights of public to land lying withing any Road, Street, Alley or Highway	No public roads of record within subject property	
25	N/A	Rights of parties in possession	Not Plottable	
26	N/A	Water rights	Not Plottable	
27	N/A	Undisclosed taxes	Not Plottable	
28	N/A	Boundary discrepancies, encroachments, etc. not of record	Not Plottable	

EASEMENT AREA TABLE:

Easement Area A	Square Feet	Acres
Gross Area:	1,887,744	43.337
Existing Sand Gilia Planting Site:	9,458	0.217
Area Within 20'-wide PG&E Gas Easement:	8,921	0.205
Area Within 10'-wide Easement over 10" Gas Line:	10,714	0.246
Area Within 10'-wide Easement over Abandoned 3" Gas Line:	10,700	0.246
Area Within 10'-wide Pole Line Easement:	16,542	0.380
Area Within 50'-wide Strip Connecting to Landfill Parcel:	28,291	0.649
Net Area Credited - Easement Area A:	1,803,118	41.394
Easement Area B	Square Feet	Acres
Gross Area	792,420	18.191
Net Area Credited - Easement Area B:	792,420	18.191
Total Credited Easement Area:	2,595,538	59.585

CDFW BOUNDARY / IMPROVEMENTS / EASEMENTS MAP IMJIN PARKWAY WIDENING
MARINA, CALIFORNIA







June 26, 2023 Item No. 10f(2)

Honorable Mayor and Members of the Marina City Council

City Council Meeting of July 5, 2023

RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2023-, APPROVING THE RECORDING OF A CONSERVATION EASEMENT TO MITIGATE IMPACTS OF THE IMJIN PARKWAY WIDENING PROJECT PURSUANT TO CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE INCIDENTAL TAKE PERMIT # 2081-2019-007-04 ON PROPERTIES CONSISTING OF ACCESSOR'S PARCEL NUMBERS #031-101-039, 031-101-041, AND 031-101-056 FOR APPROXIMATELY 61.5± ACRES SUBJECT TO FINAL REVIEW BY LEGAL COUNSEL, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTATION ON BEHALF OF THE CITY COUNCIL SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

RECOMMENDATION:

It is requested that the City Council consider:

- 1. Adopting Resolution No. 2023-, approving the recording of a Conservation Easement to mitigate impacts of the Imjin Parkway Widening Project pursuant to California Department of Fish and Wildlife Incidental Take Permit # 2081-2019-007-04 on properties consisting of Accessor's Parcel Numbers #031-101-039, 031-101-041, and 031-101-056 for approximately 61.5± acres subject to final review by legal counsel; and
- 2. Authorizing the City Manager to execute all documentation on behalf of the City Council subject to final review and approval by the City Attorney.

BACKGROUND:

At the regular meeting of February 5, 2019, the City Council adopted Resolution No. 2019-11, accepting the Initial Study/Mitigated Negative Declaration for the Imjin Parkway Widening Project ("Project") completing the California Environmental Quality Act (CEQA) process.

On March 4, 2019, Caltrans determined that the project is a Categorical Exclusion under the National Environmental Protection Act (NEPA).

Within the approximately 29.6 acres of soil disturbance due to the project, are areas of potential sand gilia habitat. Sand gilia is a protected species under California law and is subject to permitting to ensure that any take of sand gilia is mitigated. Project biologists surveyed the project area for the presence of sand gilia June 1-2 and August 29, 2017, April 19-20 and May 17-19, 2018, and April 26 through April 28 and on May 5, 2021. Any sand gilia observed during the gilia flowering seasons was documented and the information was included in permit applications. The City applied for an Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) in February of 2019.

On December 21, 2022, CDFW issued to the City the California Endangered Species Act Incidental Take Permit No. 2081-2019-007-04 for the Project.

ANALYSIS:

The ITP requires permanent protection and management of 47.5 acres of occupied sand gilia habitat to serve as compensatory mitigation for the impacts of development and construction of the Project. The City has proposed that the compensatory mitigation site be within City-owned properties: APNs #031-101-039, 031-101-041, and 031-101-056 as shown on **EXHIBIT A**.

As part of the ITP issued by CDFW, the City has identified the three entities to support Habitat Management Lands for the mitigation of the sand gilia take. Per Government Code §§ 65965-65968, a separate *Land Manager*, mitigation funding *Endowment Holder*, and *conservation Easement Grantee*. No take of sand gilia can occur on the project before the compensatory mitigation site's long-term management plan is approved by CDFW, the endowment is funded, and the Conservation Easement is recorded.

At the regular meeting of November 1, 2022, the City Council adopted Resolution No. 2022-132, approving a mitigation services agreement with the Big Sur Land Trust (BLST) to serve as the Conservation Easement Holder (Easement Grantee) for the Project. On May 2, 2023, CDFW provided written approval for BSLT to serve as Easement Grantee for the Project.

The City as landowner is proposed to serve as the Land Manager with Denise Duffy & Associates as the certified biologist to oversee management under contract. The National Fish and Wildlife Foundation (NFWF) is proposed to serve as the Endowment Holder on the Project once a Recipient Agreement is approved through the Easement Grantee, Endowment Holder, the City Attorney, and CDFW and the stewardship endowment is approved through the Easement Grantee and the City Attorney.

FISCAL IMPACT:

All fees associated with this action are available within the already approved budget for the Imjin Parkway Widening Project.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

Launa D. Lang

Layne P. Long City Manager City of Marina