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1.0 INTRODUCTION

The City of Cape Coral (City) intends to implement infrastructure improvements, spanning approximately 51 linear miles, within an area referred to as Southwest 6 & 7.

The proposed Utilities Extension Project (UEP) consists of potable water distribution, irrigation/reclaimed water distribution, wastewater gravity collection and transmission, wastewater pumping, irrigation/canal pumping, roadway improvements, and storm water improvements. The linear project area generally consists of existing roads and right-of-way surrounded by adjacent residential homes, a residential golf course community, undeveloped residential areas, and canals. The undeveloped residential areas have been previously cleared and are now maintained as grassland habitats. The infrastructure improvements and contractor staging areas are located in the City of Cape Coral in Sections 27 and 34, Township 43 South, Range 23 East and Sections 5, 14-16, 20-23, 26-29 and 32-35, Township 44 South, Range 23 East, Lee County, Florida. A location map of the infrastructure improvements is provided in **Figure 1-1a**. A location map of the contractor staging areas is provided in **Figure 1-1b**. A two to three year construction schedule is expected, with the project divided into 12 geographic areas administered under seven separate contracts. A map of the contract areas is provided in **Figure 1-2**.

Johnson Engineering, Inc. ecologists conducted a protected species survey (PSS) of the project area in January, February and April, 2013 in accordance with survey methodologies outlined by the Florida Fish and Wildlife Conservation Commission (FWC). During the PSS, a total of 95 burrowing owl (*Athene cunicularia*) burrows were GPS-survey located in the vicinity of the project, of which 31 were determined to occur within 10 feet of the project limits. Based on the linear nature of the project, it was determined that a migratory bird nest removal (MBNR) permit will be required from FWC. To apply for a MBNR permit, a Burrowing Owl Management/Protection Plan is required to ensure protection of this species during the construction activities.

2.0 SITE PLAN

Figure 2-1a and Figure 2-1b depict the burrowing owl burrow locations that were GPS-survey located in the vicinity of the Southwest 6 & 7 UEP and contractor staging areas, respectively.

Copies of **Figure 2-1a and Figure 2-1b** are also provided in 24" x 36" format in **Appendix A**.

The construction activities will be limited to the road right-of-way within the project area and the 12 City-owned parcels that will serve as contractor staging areas. If an expansion of the project area is required to include any additional contractor staging areas not currently identified, it will be the responsibility of the contractor to obtain or amend any relevant local, state or federal permits.

3.0 BURROWING OWL MANAGEMENT ACTIVITIES

The Florida burrowing owl is listed as a Species of Special Concern (SSC) by the FWC under Rule 68A-27.005, Florida Administrative Code (F.A.C.). Rule 68A-27.005(2)(a), F.A.C. provides the burrowing owl with the following protective provisions: No person shall take (pursue, hunt, harm, harass, capture, molest, or kill), possess, transport or sell any SSC, including its nests or eggs, except as authorized by permit from the FWC Executive Director. It is critical that no active burrowing owl burrows (i.e. burrows containing eggs or flightless young) are damaged during construction and that no burrowing owls, eggs, or flightless young are injured during burrow collapse activities, if required.

The burrowing owl nesting season extends from February 15 through July 10 of each year. This is the time of year when burrowing owl burrows are most likely to be active. In project areas where burrowing owl burrows have been identified, efforts will be made to construct infrastructure improvements outside of the burrowing owl nesting season to the greatest extent practicable.

Prior to construction commencement, the project biologist will apply for a "blanket" MBNR permit from FWC. Specifically, a blanket MBNR permit is being requested for the collapsing of up to 60 inactive burrows due to the project size and expected duration of construction (i.e. three years). The request of up to 60 burrows in the permit will allow for flexibility needed due to the project time frame, and will reduce the potential need for subsequent modifications in the event that additional burrows are established within the project area after construction begins. All known burrowing owl burrows within a 10-foot radius of the project limits will be identified with a unique identification number for documentation purposes. In the event an inactive burrowing owl burrow must be collapsed by the project biologist, the unique identification number will provide a means by which to ensure the number of burrows collapsed does not exceed the permitted number in the FWC MBNR permit.

If a burrowing owl burrow is present on or within 10-feet of a particular construction area, the contractor will notify the project biologist to assess whether the burrow is active. No work will be conducted within a 10-foot radius of the burrow until the project biologist has assessed the status of the burrow. The project biologist will assess the status of the burrow utilizing an underground camera to determine whether eggs or flightless young are present in the burrow.

Any new burrows not previously identified will be assigned an identification number for documentation purposes to comply with the FWC MBNR permit.

If the burrow is determined to be active, the contractor shall erect a 10-foot radius protective barricade (if a protective barricade does not already exist) in all directions from the burrow entrance. The protective barricade shall remain in place until construction activities are complete, or until the project biologist has determined that the young have fledged the nest and no more eggs are present in the burrow. The 10-foot radius protection zone will be erected using PVC pipes and/or wood stakes with surveyor flagging to protect the area from encroachment. A sign may also be posted to communicate the presence of a protected species and that the area is protected by state law; this will help avoid accidental damage or destruction of a burrow and associated potential violations. Silt fence may not be used to erect the protective barricade, as it may adversely affect the owl's ability to detect predators. No construction activities or unauthorized human entry may occur within the 10-foot protection zone of an active burrowing owl burrow. Construction activities may proceed outside the 10-foot protection zone of a burrowing owl burrow at any time of year regardless of the burrow status.

If after viewing the inside of a burrow using an underground camera, the burrow is deemed inactive by the project biologist, the biologist may then collapse the burrow in accordance with the conditions outlined by the FWC MBNR permit. After the burrow is collapsed in accordance with permit conditions, construction activities may proceed. No burrowing owls or eggs will be killed, destroyed, or entombed during burrow collapsing. Burrows will be collapsed by hand shovel only after the project biologist has ensured they are unoccupied.

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4.0 REFERENCES

City of Cape Coral. Burrowing Owl Permit Procedures.

[http://www.capecoral.net/Portals/0/](http://www.capecoral.net/Portals/0/DeptImages/DCD/eagles/Burrowing%20Owl%20Building%20Permit%20Procedures.pdf)

[DeptImages/DCD/eagles/Burrowing%20Owl%20Building%20Permit%20Procedures.pdf](http://www.capecoral.net/Portals/0/DeptImages/DCD/eagles/Burrowing%20Owl%20Building%20Permit%20Procedures.pdf)
(Date accessed March 11, 2013).

City of Cape Coral. Burrowing Owl Information. <http://www.capecoral.net/en-us/government/projectandbuildinginformation/planningdivision/environmental/burrowingowlinformation.asp> (Date accessed March 11, 2013).

Florida Fish and Wildlife Conservation Commission. Burrowing Owl Nest Protection Guidelines

and Procedures in Urban Areas. Tallahassee, FL. 2009. 1 pg.

U.S. Fish and Wildlife Service (USFWS) Burrowing Owl Species Profile: *Athene cunicularia*.

<http://myfwc.com/wildlifehabitats/profiles/birds/owls/burrowing-owl/> (Date accessed March 11, 2013).