

South Florida Audubon Society  
South Florida Wildlife Center  
Audubon Everglades

October 13, 2025

Pompano Park JV Holdings LLC  
601 E Pratt Street, Floor 6  
Baltimore, Maryland 21202

Re: Endangered Species Act Compliance Letter  
Pompano Park Racino Plat – ***NW Commercial Development***  
– ***Red Shaded Area in Exhibit 1***  
City of Pompano Beach, Broward County, Florida  
Permit Number: LSNR-23-00064, Issued June 20, 2023, Expires June 30, 2026

To Corey Long:

This letter was prepared to provide written justification that a “Take” will not occur to threatened and endangered species present in the county because of the Commercial Development on the NW parcel, shaded in Red on Exhibit 1. Based on an environmental study conducted by trained biologists, no potential to impact federally listed threatened or endangered species was found; and the project does not require an Incidental Take Permit from any federal agencies pursuant to the Endangered Species Act.

However, the site was required to and did obtain a Migratory Bird Nest Removal Permit from the Florida Fish and Wildlife Conservation Committee for the State-listed as threatened Florida burrowing owl, LSNR-23-00064, effective June 20, 2023 and valid through June 30, 2026. This species is not federally listed and therefore; no federal permit was required.

On October 13, we did a comprehensive survey of this portion of the project and found no evidence of any Florida burrowing owl or gopher tortoise burrows or nests.

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To summarize, there is no take or permitting required at the federal level as of this date. At the State level, the project has an Incidental Take Permit as it relates to the State-listed as threatened Florida burrowing owl. The project is currently in compliance with that permit. The NW Commercial Development does not require any additional permitting as of this date.

Sincerely,

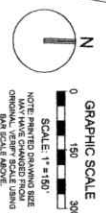
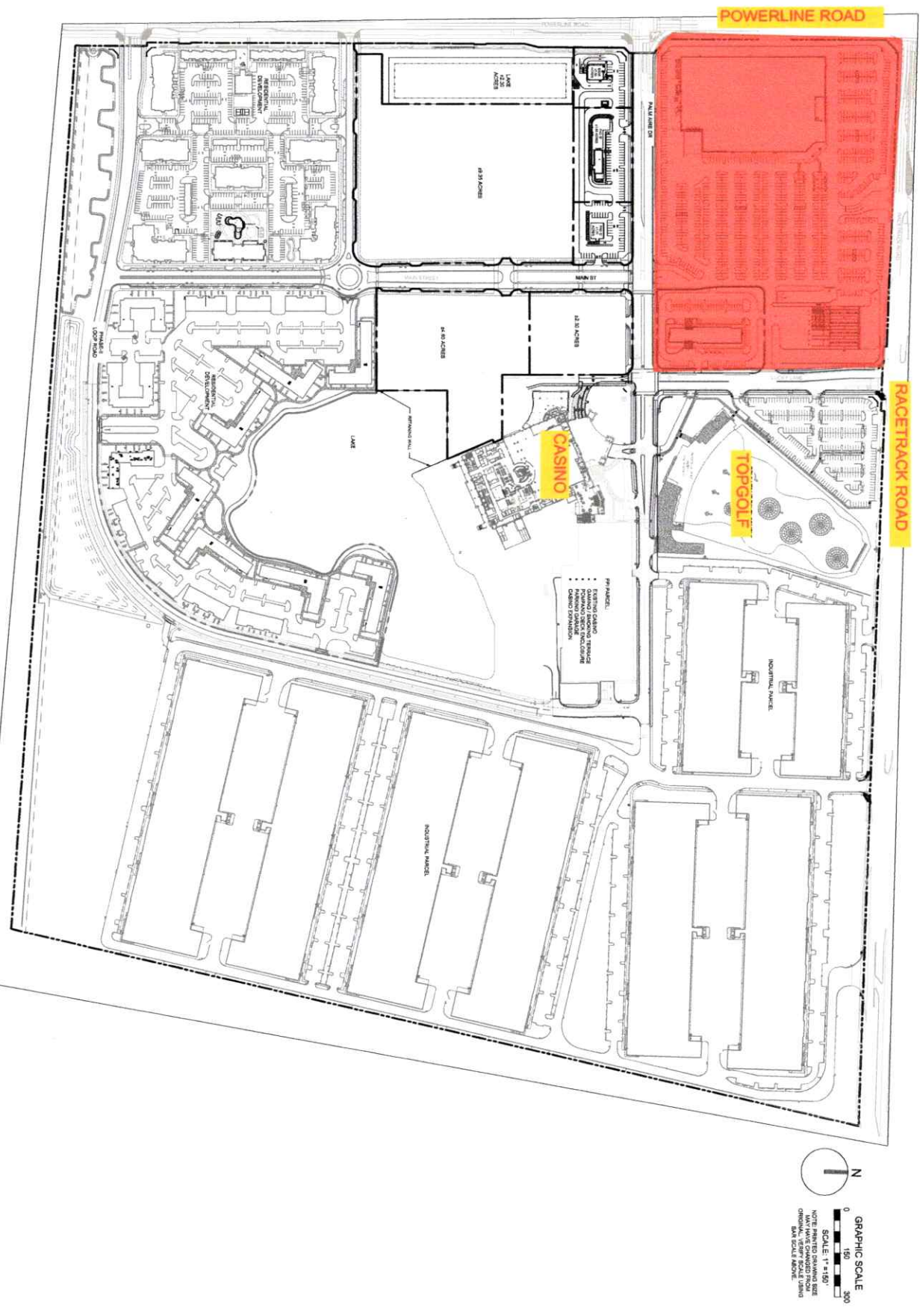
Kelly Heffernan  
Avian Biologist, Project Perch Inc.  
Registered Agent (BuOw RAG-18-00054)  
Registered Agent (GoTo RAG-17-00043)  
(978) 412-5313  
[owl@projectperch.org](mailto:owl@projectperch.org)

Attachments: Exhibit 1: Map of the NW Commercial Development & Permit

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Exhibit 1



GRAPHIC SCALE  
0 150 300  
SCALE: 1" = 150'  
NOTE: PLANNED SHADING SIZE  
ON THIS PLAN IS FOR GENERAL  
REFERENCE ONLY. SEE  
PLAN SCALE ABOVE.



PH: (254) 758-3400

Project: Cedar Lake, 1988

Licensee Business Number: 0000

REVISIONS		
NO.	DESCRIPTION	DATE
1	CONCEPT REVISION	07/09/2024
2	CONCEPT REVISION	07/09/2024
3	CONCEPT REVISION	07/09/2024
4	CONCEPT REVISION	07/09/2024
5	CONCEPT REVISION	07/09/2024
6	CONCEPT REVISION	07/09/2024

RESPONSIBILITY FOR THE USE OF THESE  
PLANS IS SOLELY THE RESPONSIBILITY OF THE  
CLIENT. ALL AGENTS HAVING JURISDICTION OVER  
THE PROJECT WILL BE HELD RESPONSIBLE FOR THE  
USE.

ISSUE DATE:  
DESIGNED BY:  
DRAWN BY:  
CHECKED BY:  
IN CONTRACT:

CLIENT:

PROJECT:  
*Live!*

SHEET TITLE:

CONCEPT PLAN  
EXHIBIT

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## Migratory Bird Nest Removal

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION  
Division of Habitat and Species Conservation, Wildlife Diversity Conservation Section  
620 South Meridian Street, MS 2A, Tallahassee, FL 32399-1600, (850) 921-5990

Permit Owner Name: Pompano Park JV Holdings LLC  
Permit Owner Address: 601 E Pratt St FL 6  
BALTIMORE, MARYLAND  
21202 UNITED STATES

Permit Number: LSNR-23-00064  
Effective Date: June 20, 2023  
Expiration Date: June 30, 2026

Agent Name: Kelly Heffernan  
Agent Address: Project Perch Inc  
10488 SW 49th Place c/o Paul Kragh  
COOPER CITY, FLORIDA 33328  
UNITED STATES

### IS AUTHORIZED TO:

Incidentally take the Florida burrowing owl (*Athene cunicularia floridana*), whereas 'take' for the purpose of this permit shall consist of authorization to non-lethally 'harass' owls by flushing (frightening without making physical contact) owls away from the burrow, inserting a burrow-video scope into the burrow, excavating and filling an inactive (i.e., containing no eggs or flightless young) burrow, and possibly disturbing owls by working within a distance of 33 feet of an active burrow, containing eggs and/or flightless young, without collapsing the nest burrow, residential/commercial construction, pursuant to Rules 68-1, 68A-27 F.A.C. and in accordance with the Florida Burrowing Owl Species Conservation Measures and Permitting Guidelines.

AUTHORIZED LOCATION(S): Pompano Isle Casino Redevelopment Project Site (Represented by Corey Long) located at 777 Isle of Capri Blvd. with Parcel Identification Number: 494203350010 at Latitude 26° 13' 17.29" N Longitude 80° 9' 7.37" W within T49S,R42E,S03, in Pompano Beach, Broward County, Florida.

Permittee Signature: Kelly M Heffernan Date: 7/6/23  
Not valid unless signed. By signature, confirms that all information provided to issue the permit is accurate and complete, and indicates acceptance and understanding of the provisions and conditions listed below. **Any false statements or misrepresentations when applying for this permit may result in felony charges and will result in revocation of this permit.**

Authorized By: Angela Williams

Authorized for: Melissa Tucker, Division Director

Authorizing Signature: Angela L Williams  
Wildlife Diversity Conservation Section

Date: 06/20/2023

### PERMIT CONDITIONS AND PROVISIONS:

1

1. The Florida burrowing owl was reclassified from status of species of special concern to threatened, effective January 11, 2017. Accordingly, former Migratory Bird Nest Removal permits for burrowing owls are now issued as Listed Species Incidental Take permits in accordance with Rule 68A-27. Permit number LSNR-23-00064 (as indicated above) is interchangeable with Listed Species Incidental Take permit number LSIT-23-00064 in FWC records.

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2. Burrowing owls typically nest between February 15 – July 10. However, the burrowing owl pair may begin nesting before or finish nesting after this timeframe for many reasons. The Agent must carefully monitor and scope the nest to document the actual nesting season for the owl pair to confirm the nest status (e.g. active or inactive) before under taking action under this permit.

3. Eleven (11) inactive burrowing owl nest burrow(s) comprising seven (7) burrow clusters (plus one additional future burrow cluster) situated on redevelopment project area may be destroyed in association with residential/commercial construction provided that:

A. The Authorized Agent (or their subpermittee who is also an authorized agent) performs the burrow inspection and destruction during the above effective and expiration dates (see provision below) within 48 hours before initiating activities in the active part of the project site (e.g., the area scheduled for clearing/grading, utility installation, etc.). If the Permittee is unable to begin project activities within 48 hours of the Agent excavating and filling the burrow(s), the Permittee or Agent shall conduct daily monitoring to ensure that burrowing owls do not attempt to return to the site. If project activities are delayed beyond the 48-hour window, the Permittee via the Agent must contact the Permit Office to request an amendment of the permit for additional authorization to take the owls via harassment.

B. Such destruction is done at a time when the burrow does not contain any eggs or owls (e.g. flightless chicks, juveniles, or adults). Any juvenile capable of flying or adult owls physically present at the burrow may be gently flushed away by the Authorized Agent without physical contact using non injurious methods to facilitate burrow inspection prior to excavating and filling the burrow.

C. In the event the Agent cannot determine if the nest burrow is inactive (e.g., the owls retreat into the burrow and will not exit, burrow entrance seems somewhat decorated, etc.) it must be inspected internally via a burrow-video scope.

i. If eggs or flightless chicks are seen in the burrow on the burrow-video scope, the burrow is deemed active and may not be excavated. Adult owls must be allowed to return to the burrow and the burrow must be roped off in accordance with bullets 2 through 4 in Appendix C of the Florida Burrowing Owl Species Conservation Measures and Permitting Guidelines by at least a 33 foot buffer until the nest is inactive (e.g. contains no eggs or flightless young). This office must be contacted immediately at (850) 921-5990 or at [WildlifePermits@myFWC.com](mailto:WildlifePermits@myFWC.com) Monday-Friday during business hours to report the number of eggs and/or young observed in the burrow and report the behavior of the adults. The information must be reported by email at [WildlifePermits@myFWC.com](mailto:WildlifePermits@myFWC.com) when conducted during non-business hours.

ii. If the Agent's scoping results are inconclusive (i.e., one cannot determine the contents of the burrow due to obstruction or other causes) and the burrow has one or two adult owls present and/or has a decorated appearance, the burrow shall be classified as active and may not be destroyed. The burrow must be roped off as stated above in provision 3.C.i. until deemed inactive.

D. If the Agent's scoping results reveal that owls are no longer present within the burrow and the burrow is determined to be inactive (i.e., does not contain eggs or flightless young), the Agent may carefully excavate or dig up the burrow(s). To excavate or dig a burrow the Agent should carefully start digging from the entrance of the burrow, working towards the end, one small section at a time, either by hand or with small hand tools taking care to remove the roof of the burrow without contacting any potential burrow contents.

i. The Agent may fill the burrow with substrate upon determining that the end of the burrow has been reached and that there are no eggs or flightless young present. The burrow area shall be rendered inaccessible for further owl nesting activity (e.g., cover the burrow area with a resistant cloth/substrate, fencing etc.).

ii. Should the Agent find eggs or flightless young within the burrow(s), they must stop excavating, and immediately attempt to carefully reconstruct the burrow by placing a piece of 4" diameter corrugated drain-field tubing in the section of the burrow that was excavated and cover with soil. Alternatively, a 6" PVC pipe or corrugated drain-field tubing with a 3" slot cut out of the bottom can be used to allow the owls to walk on soil. Plywood or something similar can be placed over the excavated portion to shelter the eggs or chicks until the tubing or PVC can be obtained and put in place. The reconstructed burrow must be observed to see if the adult birds return to the nest burrow. And the area must be roped off with at least a 33 foot buffer. This office must be contacted immediately at (850) 921-5990 or at [WildlifePermits@myFWC.com](mailto:WildlifePermits@myFWC.com) Monday-Friday during business hours to provide an overview of the burrow reconstruction effort, report the number of eggs and/or young observed in the burrow and record the behavior of the adult owls. The information must be reported by email at [WildlifePermits@myFWC.com](mailto:WildlifePermits@myFWC.com) when conducted during non-business hours.

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4. Any injury and/or mortality of burrowing owls or other listed species must be reported to this office within 48 hours at (850) 921-5990 or email at WildlifePermits@myFWC.com. Disposition of those specimens is subject to individual approval by the Commission.

5. The Permittee via their Agent shall minimize and mitigate impacts to burrowing owls as follows, which are specific conditions of this Permit:

A. Minimization. The Permittee has offered and FWC has accepted minimization measures (typically performed by the Agent) for species impact as described below. Each minimization measure described herein is a specific condition of this Permit:

i. No construction activities will occur within 10 feet of the burrow, when the burrow is active (eggs or flightless young in the burrow). The burrow(s) will be staked and roped off in accordance with bullets 2 through 4 in Appendix C of the Florida Burrowing Owl Species Conservation Measures and Permitting Guidelines with a 10 foot buffer, until the nest burrow becomes inactive (e.g. young are able to fly), per provision 3.D. above.

B. Mitigation. The Permittee and FWC have agreed upon conservation measures for species impacts as described below. Each conservation measure described herein is a specific condition of this permit:

i. Sixteen (16) artificial burrow systems (2 per 8 burrow clusters [7 existing and 1 future] in which potentially occupied burrows are destroyed or breeding pair harassed) must be constructed on-site, in accordance with Appendices C and D of the Florida Burrowing Owl Species Conservation and Permitting Guidelines.

1. The Permittee via the Agent shall choose an artificial burrow design:

a. that has proven successful for burrowing owls in Florida. The artificial burrow(s) shall be placed in an open, well-drained sandy area away from visual obstructions such as bushes, trees or structures. (see Appendix D, page 30 of the Guidelines for additional recommendations for choice of and placement of artificial burrow systems). A wooden t-shaped perch, not to exceed 24 inches in height, shall be placed near the burrow entrance.

b. shall be installed at least 7 days prior to initiating project activities to allow the owls to find the new burrow(s) in a nonimpact area of the project site.

2. Vegetation shall be maintained by the Permittee as property owner:

a. in accordance with Appendix C of the Guidelines for a period of 3 years or until the permit expiration date, whichever comes first.

b. at height of less than 5 inches in height around the burrow(s). The Permittee shall avoid use of heavy equipment in a manner that could collapse the burrow(s) when managing vegetation.

c. If necessary, posting and signage shall be placed in accordance with Appendix C and maintained for the duration of this permit.

d. the entrance of the artificial burrows must be kept free of debris or eroded soil until burrowing owls occupy the site or for the duration of this permit, whichever comes first.

e. Up to four (4) additional artificial burrow systems (totaling 20) may be installed post-construction if the ABS from 5.B.i. become occupied.

ii. The Permittee will make a payment of \$26,600 (\$3,800 for two category 2 clusters and \$22,800 for six category 3 clusters) to the Imperiled Species Permitting Conservation Fund (Fund) to support activities which provide a conservation benefit for Florida burrowing owls. The financial contribution must be mailed to the Fish and Wildlife Foundation of Florida (Foundation), Attention: Imperiled Species Permitting Conservation Fund, P.O. Box 11010, Tallahassee, Florida 32302 along with the enclosed routing form.

iii. on-site habitat management and removal of invasive plants and wildlife, such as iguanas and posting of educational signage will be performed prior to construction.

6. The Permittee's Agent may execute this Permit by scoping (and once determined to be inactive), excavating then filling the authorized burrows, only after the Permittee signed copy of the permit and conservation payment receipt from the Foundation are uploaded to the permit account in the Online Permit System. The permit and redacted payment receipt must also be posted on-site per provision 11 below.

7. This permit does not authorize incidental take of wildlife their nests and any parts thereof that are state listed Threatened species [see Titles 68A-27, Florida Administrative Code (F.A.C.) for complete listing of excluded species] or Bald eagles [Haliaeetus leucocephalus] 68A-16.002 F.A.C, other than those indicated in the above provisions. Permits for take of additional species must be secured separately prior to conducting said activity. In

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such cases, contact the Permit Coordinator at the address given above.

8. The activities authorized under this Permit may be carried out by the Permittee unless otherwise specified above or Authorized Agent where stated and with the assistance of any employee or contractor under their control as Subpermittees/Assistants. The Agent must be always present on-site during scoping, excavating, and filling burrows, with Subpermittee/Assistants who are not in possession of an approved Registered Agent permit. Accordingly, all such activities are the responsibility of the Permittee or Authorized Agent. The Permittee and Authorized Agent shall be as fully responsible for any such activities to the same extent as if they had themselves carried out those activities under this Permit. The Permittee or Authorized Agent must obtain a Registered Agent permit in the Online Permit System. Then use the Manage Assistants tool on the Home Menu to submit the name and contact information of designated Subpermittees/Assistants, prior to that Subpermittee/ Assistant assisting with or performing any activities authorized under this permit. The FWC reserves the right to deny a Permittee's designation of an individual as its Subpermittee/Assistant for just cause. Contact the Protected Species Permit Coordinator at WildlifePermits@myFWC.com for additional information.

9. Federal authorization or permit(s) must be obtained from the United States Fish and Wildlife Service ( USFWS) before embarking upon activities involving or impacting active nests of Migratory Bird Treaty Act (MBTA) species, all nests of Endangered Species Act (ESA) species and other federally protected species.

10. This Permit does not authorize access to any public or private properties. The Permittee, Agent and their subpermittees/assistants must secure permission from the appropriate landowner or land manager prior to conducting any activity authorized under this permit.

11. The original Permittee-signed Permit and the Foundation receipt of payment letter (or complete copies of each) must be prominently posted on the Project site for inspection by all authorized officials (including but not restricted to FWC, USFWS, local building and zoning, law enforcement) prior to engaging in the scoping, excavation and collapsing of burrowing owl nest burrows and shall always remain posted until construction activities are complete. The Permittee and/or Agent is required to make the permit available upon request by the above entities, after construction activities are complete for the duration of the permit.

12. The Permittee and Agent must ensure that the species conservation benefit (e.g. mitigation) described in provision 5.B. are met over the life of the permit or provide acceptable new benefits via request for a permit amendment in the Online Permit System.

13. The Permittee (e.g. current property owner) and their Agent are required to notify this office in writing, if the property is subject to transfer ownership prior to the Permit expiration date. The Permittee and Agent along with the new property owner must request to have the Permit transferred to the pending new owner (transferee) and their Agent (if applicable) by providing the following:

A. Written notice of change in property ownership (including the name and address of the proposed new owner),

B. Copy of the legally binding instrument effectuating the property transfer (e.g. final sales contract, deed, other conveyance or transfer documentation, etc.),

C. Notarized written agreement by the transferee (new property owner) acceptable to the FWC, binding the transferee to the mitigation requirement of \$26,600 payment for financial contribution, maintenance of vegetation and integrity of the artificial burrows mouth and t-perch for on-site mitigation per provision condition 5.B. of this Permit to the same extent as the original Permittee.

D. Summary of any activities performed under the permit (per reporting requirement below) and statement/proof of initiation or completion of the mitigation.

14. FWC will approve the transfer via a permit amendment, unless it determines that the transferee has not provided reasonable assurance that 1) the property is officially transferred and/or 2) they can and will comply with the Permit (e.g. proposed inadequate conservation benefit or coverage less than the life of the original permit, etc.).

15. The Permittee and Agent or transferor transferring this Permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to issuance of a permit amendment or as a result of permit violations on the property after change in ownership but while former owner and agent still holds the permit.

16. The Permittee/Agent by signature above confirms that representatives of the Florida Fish and Wildlife Conservation Commission (Commission) have his/her permission as the landowner(s) to enter on and inspect the

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property(ies) described in the application (herein incorporated by reference) and any documents associated with this permit for all reasonable purposes pertaining to applicable Commission rules.

17. The Permittee via the Agent shall submit an annual report (using report form ) by September 1 to the Protected Species Permit Coordinator, Wildlife Diversity Conservation Planning Section, by uploading it to the permit account (using the Upload File function) in the Online Permit System (System). The report shall include:

A. details of the burrow destruction activities (e.g. date, presence/absence of owls, and observed owl behavior) and

B. the date of establishment for starter burrow(s) or artificial burrow(s), whether burrowing owls were observed using the burrow(s), the date on which burrowing owls were first observed using the burrow(s), and observations of young burrowing owls, (e.g., number of young, location in proximity to burrow, activity, etc.) and photographs of each starter or artificial burrow with posting, signage or other protective measures, if applicable.

An annual report of the number of iguanas removed from the site and the impact of iguanas on burrowing owls is required by September 1 (commencing 2023) to the Protected Species Permit Coordinator, Species Conservation Planning Section, by uploading it to the permit account (using the Upload File function) in the Online Permit System (System).

18. Requests for permit renewal should be submitted at least 45 days prior to the time it is needed in the Online Permit System. All permit renewal (or amendment) requests must contain a copy of the above referenced report. Copies of any other reports or publications, which result from the work, must also be provided upon their availability.

19. The Permittee via the Agent must provide notice of completion of construction activity to this office in the Online Permit System (System).

20. This Permit can be suspended, revoked or not renewed for just cause, pursuant to 68-1.010, Florida Administrative Code and Chapter 120, [Florida Statutes](#).

**A person whose substantial interests are affected by FWC's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. A person seeking a hearing on FWC's action shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision. The petition must contain the information and otherwise comply with section 120.569, Florida Statutes, and the uniform rules of the Florida Division of Administration, chapter 28-106, Florida Administrative Code. If the FWC receives a petition, FWC will notify the Permittee. The attached Explanation of Rights statement provides additional information as to the rights of parties whose substantial interests are or may be affected by this action.**

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