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April 23, 2024

Helen Cox
City of Thousand Oaks
Public Works Department
2100 East Thousand Oaks Boulevard
Carpinteria, CA 91362
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SUBJECT: DRAFT INITIAL STUDY – NEGATIVE DECLARATION FOR THE CITY OF THOUSAND OAKS CLIMATE AND ENVIRONMENTAL ACTION PLAN, SCH NO. 2024030627

Dear Helen Cox:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Initial Study – Negative Declaration (IS-ND) for the City of Thousand Oaks Climate and Environmental Action Plan (Project; CEAP) from the City of Thousand Oaks (City) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines[1].

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 1802.). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law[2] of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Thousand Oaks

Objective: The purpose of the Project is to set forth climate and environmental goals, policies, and implementation actions to protect the environment and address the challenges of climate change. Actions address the sectors responsible for climate change-related emissions – energy, buildings, transportation, solid waste, and water – and include measures to adapt and increase resilience to the impacts of climate change. The Project reflects the community's current vision for Thousand Oaks and includes measures to implement environmental and climate-related policies contained in the City's recently adopted General Plan.

Location: The CEAP applies to all areas within the City of Thousand Oaks limits in the County of Ventura, California.

Biological Setting: The City of Thousand Oaks encompasses approximately 35,000 acres within the Conejo Valley, surrounded by the Mount Clef Ridge to the north, Simi Hills to the east, Santa Monica Mountains to the south, and Conejo Mountain to the west. Much of the City is defined by single-family residential neighborhoods with schools, public parks, and smaller retail shopping centers dispersed throughout. The outer edges of the City consist of open space that offers many recreational access points.

The Environmental Impact Report for the 2045 General Plan Update (GP EIR; Thousand Oaks 2023) identified 24 special-status invertebrate, fish, amphibian, reptile, bird, and mammal species with the potential to occur in the City (GP EIR Appendix E). Six of these are listed by the Endangered Species Act (ESA) as threatened or endangered and/or the California Endangered Species Act (CESA) as threatened, endangered, or candidate species:

- Crotch's bumble bee (*Bombus crotchii*; CESA candidate endangered species)
- tricolored blackbird (*Agelaius tricolor*; CESA-listed threatened, California Species of Special Concern (SSC))

[2] "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

- least Bell's vireo (Vireo bellii pusillus; ESA-listed endangered, CESA-listed endangered species)
- bank swallow (Riparia riparia; CESA-listed threatened species)
- California red-legged frog (Rana draytonii; ESA-listed threatened species, SSC)

The GP EIR also identified 38 special-status plant species with the potential to occur in the City. Eight of the identified species are ESA listed threatened or endangered, and/or CESA listed endangered and/or NPPA listed Rare.

- Braunton's milk-vetch (*Astragalus brauntonii*; ESA-listed endangered)
- Agoura Hills dudleya (*Dudleya cymosa* ssp. *agourensis*; ESA-listed threatened)
- Marcescent dudleya (*Dudleya cymosa ssp. marcescens*; ESA-listed threatened, NPPA listed Rare)
- Conejo dudleya (*Dudleya parva*; ESA-listed threatened)
- Verity's dudleya (Dudleya verity; ESA-listed threatened)
- California orcutt grass (*Orcuttia californica*; ESA-listed endangered, CESA-listed endangered)
- Lyon's pentachaeta (*Pentachaeta lyonii*; ESA-listed endangered, CESA-listed endangered species)

The City of Thousand Oaks also contains federally designated Critical Habitat for:

- Braunton's milk-vetch
- Lyon's pentachaeta
- coastal California gnatcatcher (*Polioptila californica californica*; ESA-listed threatened)
- Riverside fairy shrimp (*Streptocephalus woottoni*; ESA-listed endangered)

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

COMMENT #1: Impacts to Sensitive Species

Issue: The Project could have a substantial effect, either directly or through habitat modification, on a species identified as a candidate, sensitive, or special status by CDFW.

Specific Impact: Implementation of measures envisioned by the CEAP may involve ground disturbance or vegetation removal associated with retrofitting existing facilities and construction and ongoing operation of new facilities and road improvements.

The CEAP calls for the installation of solar panels at all City facilities (Measure BE-3.3). It also calls for the installation of electric vehicle support facilities and charging infrastructure in commercial parking lots (Measures TR-2.3 and TR-2.5), at community facilities including parks (Measure TR-2.4), in existing multifamily developments and in disadvantaged communities (Measure TR-2.6), and at locations that support electric buses and the City's electric fleet and transit vehicles (Measures TR-2.8 and TR-2.9). The CEAP includes improvements for sidewalks, bike lanes, and bike routes throughout the City and installation of charging options for electric bikes (Measure TR-1.3). Additionally, the CEAP envisions various electrification retrofits to transition to all-electric construction (Building Energy Measures). These construction activities and permanent facilities could impact special status species, either directly through injury or mortality or through habitat modification.

Why impact would occur: Future individual Projects in support of the CEAP could occur in locations containing sensitive plant or wildlife species. Biological surveys have not been conducted in support of the City's determination that the Project would not result in significant impacts to candidate, sensitive, or special status species. Furthermore, the IS-ND does not include requirements that surveys be conducted prior to approval of any individual Project, nor does it include avoidance, minimization, or compensatory measures to reduce impacts to a less than significant level.

If ground disturbance or vegetation removal associated with Project activities occurs without proper surveys, then impacts to sensitive plant species could occur. Grading, excavation, installation of structures, and vegetation removal may result in loss of individuals and seedbank, and cause population decline of rare plants. Measures requiring rare plant surveys, as well as measures for avoidance and minimization of and, if necessary, compensation for impacts are warranted.

Ground disturbance and vegetation removal associated with Project activities occurring during the bird breeding season could result in nest abandonment or otherwise lead to the incidental loss of breeding success of birds. Requirements to conduct all Project activities outside of bird nesting season, or measures requiring surveys to detect nesting birds and a protective buffer between Project activities and nests, are warranted.

Vegetation in and adjacent to individual Project sites may provide cover and habitat for wildlife, especially small reptiles and amphibians. Ground disturbing activities may result in habitat destruction for sensitive wildlife, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat. Measures to avoid impacts to special status wildlife are warranted.

There is potential for Crotch's bumble bee to occur within Project sites. Crotch's bumble bee inhabits open grassland and scrub habitats. They are generalist foragers and can be found throughout most of southwestern California in areas that have suitable nesting

habitat and floral resources. Crotch's bumble bee primarily nest in late February through late September underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, beneath brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2012). Overwintering sites utilized by Crotch bumble bee mated queens include soft, disturbed soil (Goulson 2010) or under leaf litter or other debris (Williams et al. 2014).

Without appropriate avoidance and minimization measures for Crotch's bumble bee and their habitat, Project-related activities involving ground and vegetation disturbance could result in potential significant impacts, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health, and vigor of eggs, young, and/or queens, and direct mortality. Measures requiring Crotch's bumble bee surveys, as well as measures for avoidance and minimization of and, if necessary, compensation for impacts are warranted.

Evidence impacts would be significant: Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a Project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). All phases of Project planning, implementation, and operation must be considered in the initial study of the Project (CEQA Guidelines § 15063(a)(1)). Additionally, impacts to CESA-listed species and their habitat meet the definition of endangered, rare, or threatened under CEQA (CEQA Guidelines § 15380). Impacts to CESA listed species and their habitats may result in a mandatory finding of significance because the Project has the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines § 15065).

The City indicates the Project will have a less than significant impact in response to Environmental Checklist question 4a, "Would the Project: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?" In discussing item 4a of the Environmental Checklist, the City states that "As a policy document, the CEAP would not directly result in impacts related to wildlife species identified as candidate, sensitive, or special status." However, the IS-ND acknowledges that Project-related activities could result in significant impacts (page 26). The City states, "For example, installation of electric vehicle charging stations and supporting infrastructure, new bicycle or pedestrian facilities, and solar photovoltaic (PV), may introduce physical changes related to the temporary presence and operation of construction vehicles and equipment during installation of required facilities and the long-term presence of new facilities such as bike and pedestrian facilities, solar arrays, and electric vehicle charging stations,…," and the IS-ND acknowledges that implementation of electrification retrofits may include minor excavation.

The IS-ND indicates that, “[f]uture related projects would be required to undergo environmental review, including assessment and mitigation incorporation once project details and locations are known.” This later review, however, might not occur if the individual Project does not involve a discretionary action on the part of the City. The document acknowledges that approvals for some of the proposed activities could be ministerial, which would mean there would be no publicly circulated evaluation of Project effects on fish and wildlife, and no mitigation measures required.

The IS-ND states that individual Projects will be reviewed for consistency with the General Plan 2045 (page 27). The GP EIR, however, indicates that the CEAP was not complete at the time the GP EIR was circulated, so effects of the CEAP were not evaluated in the GP EIR.

The potential of the Project to impact special status species has not been evaluated in the IS-ND. These effects have not been disclosed, evaluated, or mitigated. Instead, the document acknowledges that impacts could occur from the Project and defers the evaluation and mitigation of impacts to a later time.

Recommendations and Potentially Feasible Mitigation Measures

CDFW recommends the City re-evaluate the effects of the Project on sensitive species, and circulate a Mitigated Negative Declaration or Environmental Impact Report for the Project. CDFW further recommends the City consult with CDFW, as described in section 15063(g) of the CEQA Guidelines, prior to circulation, to discuss potential impacts to fish and wildlife resources and mitigation measures that will reduce Project impacts to a less than significant level.

To evaluate and mitigate potential impacts of the Project on sensitive species, CDFW recommends the following mitigation measures, at a minimum, as conditions of approval in the Project’s CEQA document:

Recommendation 1: Botanical Surveys

Prior to authorizing any individual Project under the CEAP, the City should conduct a thorough, floristic-based assessment of special status plants and natural communities following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018). Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and

late season) to capture the floristic diversity at a level necessary to determine if special status plants are present.

The City should fully disclose any impacts on rare plants, which should include at a minimum where impacts would occur, number of individual plants impacted, population size and density, and acres of habitat/plant communities impacted.

Recommendation 2: Sensitive Plant Avoidance

CDFW recommends the City provide measures to fully avoid impacts to sensitive plant species. If adverse impacts to sensitive plants cannot be avoided during Project activities or during the life of the Project, the City should provide measures to compensate for those impacts.

For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. The City should prepare a restoration plan, to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods, annual success criteria, contingency actions should success criteria not be met, long-term management and maintenance goals, and a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (Government Code §§ 65965-65968).

Recommendation 3: Wildlife Surveys

Prior to authorizing any individual Project under the CEAP, the City should conduct a complete assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas. Species to be addressed should include all those which the City has identified in GP EIR Appendix E. Seasonal variations in use of the Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's *Survey and Monitoring Protocols and Guidelines* available at https://wildlife.ca.gov/Conservation/Survey-Protocols for established survey protocols. Acceptable species-specific survey procedures may be developed in consultation with CDFW.

Recommendation 4: Sensitive Wildlife Avoidance

CDFW recommends the City provide measures to fully avoid impacts to sensitive wildlife species. Mitigation measures should be feasible, effective, implemented, and fully

enforceable. Mitigation measures should emphasize avoidance and minimization of Project-related impacts.

Measures such as pre-Project surveys, onsite biological monitors, plans for capture and relocation of reptiles and amphibians (including necessary take authorizations), fencing to preclude wildlife from entering the Project site during construction, and workforce education should all be considered by the City as methods to reduce the Project impacts to a less than significant level. The City should consult with CDFW to further discuss appropriate mitigation measures.

Recommendation 5: Crotch's Bumble Bee Surveys

A habitat assessment should be conducted prior to Project implementation. A qualified biologist should determine if the Project area or its immediate vicinity contains habitat suitable to support Crotch bumble bee. The assessment should include historical and current species occurrences as well as proximity to the last known sighting. The habitat assessment should include data from site visits to observe and document potential habitat including potential foraging, nesting, and/or overwintering resources. The habitat assessment should quantify which plant species are in bloom and what their percentage cover is. General plant diversity should also be assessed and documented. The foraging resources should be quantified across multiple site visits, corresponding with the Colony Active Season (April - August). Foraging resources recorded should not be limited to the preferred plant species known to be favored by Crotch bumble bee but should include all flowering plants including non-natives and invasives. Nesting resources quantified can include bare ground, rodent burrows, and other potential nesting sites that may support bumble bee colonies. Leaf litter and woody forest edge that could provide overwintering habitat should also be described.

Surveys should be designed to follow the methodology described in *Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species* (CDFW 2023). The results of the assessment be provided to CDFW prior to initiating Project activities. Please note that even the best survey may fail to detect the presence of the species.

Surveys involving capture and handling of Crotch's bumble bee should only be conducted by individuals who possess a CESA Memorandum of Understanding authorizing take of the species for scientific, educational, or management purposes.

Recommendation 6: Crotch's Bumble Bee Nest Avoidance

If Crotch's bumble bee nests are identified, a no disturbance buffer zone should be established around each nest to reduce the risk of disturbance or accidental take. The buffer zone should be a minimum of 15 meters and should be expanded as necessary to prevent disturbance.

Recommendation 7: Crotch's Bumble Bee Habitat Compensation

Any floral resources associated with Crotch's bumble bee that are removed or damaged by Project implementation should be replaced at a 1:1 ratio at a minimum. Floral resources should be replaced as close to their original location as is feasible. If active Crotch's bumble bee nests have been identified and floral resources cannot be replaced within 200-meters of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 1.5-kilometers from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests. These floral resources should be maintained in perpetuity and should be replanted and managed as needed to ensure the habitat is preserved.

Recommendation 8: Nesting Bird Avoidance

To protect nesting birds that could occur on or near the Project site, the City should include a measure that precludes ground and vegetation disturbing Project activities between February 15 and August 31. If Project activities during this period must occur, the City should conduct a complete survey for nesting bird activity within a 500-foot radius of the Project site. If any nests are found, they should be protected by a protective buffer between Project activities and the nest. The buffer should be adequately large to prevent disturbance to the breeding birds. The City should have a biological monitor onsite to evaluate the effectiveness of the buffer and increase its width as needed.

COMMENT #2: Impacts to Riparian Habitat

Issue: The Project could have a substantial adverse effect on riparian habitat or other sensitive natural communities.

Specific Impact: Implementation of measures envisioned by the CEAP include changes in hydrology and stormwater runoff, which could result in decreased availability of water necessary to maintain the health of stream and riparian habitats. Measures WA-1.1, WA-1.3, and EN-2.1 consider removal of turf and transitioning to landscaping in order to reduce irrigation needs. Measure AR-3.2 involves pursuing local groundwater options, and AR-3.3 seeks to divert stormwater and treat it for potable uses.

Why impact would occur: According to Dudgeon et al. (2006), two of the greatest threats to freshwater biodiversity today are flow modification and habitat degradation. On the west coast, 60% of amphibians, 16% of reptiles, 34% of birds, and 12% of mammals are classified as riparian obligates (Kelsey and West 1998). Tricolored blackbirds, Bell's vireo, bank swallows, and California red-legged frogs are all dependent on stream and riparian habitats.

Reduced instream flows can have impacts on wildlife, and can increase the prevalence of invasive species, including plants (Horton 1977, Friedman et al. 1998). Reduced flows can

lead to stagnant water conditions, a situation that allows the growth of harmful cyanobacteria resulting in mortality of fish and other aquatic animals (Power et al. 2015). Amphibians can also be sensitive to decreased flows. Kupferberg et al. (2012) reported that low flows were strongly correlated with early life stage mortality and decreased adult densities of California red-legged frogs. Reduced flows can also decrease food supply for aquatic species (CDFG 2004). McKay and King (2006) reported decreased diversity of macroinvertebrates in response to low flows. Such changes can result in substantial alteration of the aquatic food webs (Power 1992, Wootten et al. 1996)

Plant cover and diversity can also be decreased by reduced flows (Busch and Smith 1995, Stromberg et al. 1996), likely as a result of physiological stress leading to reduced growth rates and recruitment, morphological changes, and mortality (Reily and Johnson 1982, Perkins et al. 1984, Fenner et al. 1985, Kondolf and Curry 1986, Rood and Mahoney 1990).

Evidence impacts would be significant: Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a Project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). All phases of Project planning, implementation, and operation must be considered in the initial study of the Project (CEQA Guidelines, § 15063(a)(1)).

The City indicates the Project will have a less than significant impact in response to Environmental Checklist question 4b, “[w]ould the project: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?” In discussing item 4b of the Environmental Checklist, the City states that, “[a]s a policy document, the CEAP would not directly result in impacts related to habitat whether riparian, wetland, or other sensitive natural community.” However, the IS-ND acknowledges the Project involves improvements to the stormwater drainage system via diversion of existing infrastructure or addition of new infrastructure near existing creeks, and could impact sensitive species through habitat modification.

The IS-ND indicates that, “[f]uture related projects would be required to undergo environmental review, including assessment and mitigation incorporation once project details and locations are known.” This later review, however, might not occur if the individual Project does not involve a discretionary action on the part of the City. The document acknowledges that approvals for some of the proposed activities could be ministerial, which would mean there would be no publicly circulated evaluation of Project effects on fish and wildlife, and no mitigation measures required.

The IS-ND states that individual Projects will be reviewed for consistency with the General Plan 2045 (page 27). The GP EIR, however, indicates that the CEAP was not complete at the time the GP EIR was circulated, so effects of the CEAP were not evaluated in the GP EIR.

The potential of the Project to impact riparian habitat has not been evaluated in the IS-ND. The effects have not been disclosed, evaluated, or mitigated. Instead, the document acknowledges that impacts could occur from the Project, but defers the evaluation and mitigation of impacts to a later time.

Recommendations and Potentially Feasible Mitigation Measures

CDFW recommends the City re-evaluate the effects of the Project on riparian habitats and circulate a Mitigated Negative Declaration or Environmental Impact Report for the Project. CDFW further recommends the City consult informally with CDFW, as described in section 15063(g) of the CEQA Guidelines, prior to circulation, to discuss potential impacts to fish and wildlife resources and mitigation measures that will reduce Project impacts to a less than significant level.

To evaluate and mitigate potential impacts of the Project on sensitive species, CDFW recommends the following mitigation measures, at a minimum, as conditions of approval in the Project's CEQA document:

Recommendation 9: Evaluation of Effects on Aquatic Species

Analysis of the effects of the Project should include the potential of the Project to result in reduced flows that may affect California red-legged frog and other amphibian and aquatic species, as well as the potential to affect the health of riparian vegetation that provides important habitat for least Bell's vireo and other sensitive birds.

Recommendation 10: Mitigation of Effects on Aquatic Species

If the City's re-evaluation determines such impacts could occur, the City should develop mitigation measures to reduce impacts to a less than significant level. Mitigation measures should be feasible, effective, implemented, and fully enforceable. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

Additional Comments: Responsible Agency Authority

1. Lake and Streambed Alteration. Measaure AR-3.6 of the CEAP involves conducting, "a local drainage study of the South Branch Arroyo Conejo area to identify engineering and construction solutions to improve the stormwater conveyance of that area and reduce the number of properties in the floodplain." Measure AR-3.7 calls for the City to, "rehabilitate, maintain and repair the existing storm drain system city wide to ensure system reliability." CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or

change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA is a discretionary action that will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW recommends that the City assess whether notification is appropriate. A Notification package for a LSAA may be obtained by accessing CDFW's web site at http://www.wildlife.ca.gov/Conservation/LSA.

2. CESA. Take of any endangered, threatened, candidate species, or NPPA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity will result in take of a species designated as endangered, threatened, or rare, or a candidate for listing under CESA, CDFW recommends that the City seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or, in certain circumstances, a consistency determination, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements of a CESA ITP.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). Instructions for submittal are available online at https://wildlife.ca.gov/Data/CNDDB. Additionally, information on special status native plant populations and sensitive natural communities should be submitted to CDFW's Vegetation Classification and Mapping Program. Instructions for submittal are available online at https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the Draft EIR to assist to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Kelly Fisher at (858) 354-5083 or Kelly.Fisher@wildlife.ca.gov.

Sincerely,

DocuSigned by:
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Victoria Tang
Environmental Program Manager
South Coast Region

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)		
Mitigation Measure or Recommendation	**Timing**	**Responsible Party**
Recommendation 1: Botanical Surveys Prior to authorizing any individual Project under the CEAP, the City should conduct a thorough, floristic-based assessment of special status plants and natural communities following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018). Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and late season) to capture the floristic diversity at a level necessary to determine if special status plants are present. The City should fully disclose any impacts on rare plants, which should include at a minimum where impacts would occur, number of individual plants impacted, population size and density, and acres of habitat/plant communities impacted.	Prior to Project authorization	City
Recommendation 2: Sensitive Plant Avoidance CDFW recommends the City provide measures to fully avoid impacts to sensitive plant species. If adverse impacts to sensitive plants cannot be avoided during Project activities or	Prior to adopting ND	City

during the life of the Project, the City should provide measures to compensate for those impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. The City should prepare a restoration plan, to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods, annual success criteria, contingency actions should success criteria not be met, long-term management and maintenance goals, and a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (Government Code §§ 65965-65968).		
Recommendation 3: Wildlife Surveys Prior to authorizing any individual Project under the CEAP, the City should conduct a complete assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas. Species to be addressed should include all those which the City has identified in GP EIR Appendix E. Seasonal variations in use of the Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's *Survey and Monitoring Protocols and Guidelines* available at https://wildlife.ca.gov/Conservation/Survey-Protocols for established survey protocols. Acceptable species-specific survey procedures may be developed in consultation with CDFW.	Prior to Project authorization	City

Recommendation 4: Sensitive Wildlife Avoidance CDFW recommends the City provide measures to fully avoid impacts to sensitive wildlife species. Mitigation measures should be feasible, effective, implemented, and fully enforceable. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. Measures such as pre-Project surveys, onsite biological monitors, plans for capture and relocation of reptiles and amphibians (including necessary take authorizations), fencing to preclude wildlife from entering the Project site during construction, and workforce education should all be considered by the City as methods to reduce the Project impacts to a less than significant level. The City should consult with CDFW to further discuss appropriate mitigation measures.	Prior to adopting ND	City
Recommendation 5: Crotch's Bumble Bee Surveys A habitat assessment should be conducted prior to Project implementation. A qualified biologist should determine if the Project area or its immediate vicinity contains habitat suitable to support Crotch bumble bee. The assessment should include historical and current species occurrences as well as proximity to the last known sighting. The habitat assessment should include data from site visits to observe and document potential habitat including potential foraging, nesting, and/or overwintering resources. The habitat assessment should quantify which plant species are in bloom and what their percent cover is. General plant diversity should also be assessed and documented. The foraging resources should be quantified across multiple site visits, corresponding with the Colony Active Season (April - August). Foraging resources recorded should not be limited to the preferred plant species known to be favored by Crotch bumble bee but should include all flowering plants including non-natives and invasives. Nesting resources quantified can include bare ground, rodent burrows, and other potential nesting sites that may support bumble bee colonies. Leaf litter and woody forest edge that could provide overwintering habitat should also be described.	Prior to Project authorization	City

Surveys should be designed to follow the methodology described in Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023). The results of the assessment be provided to CDFW prior to initiating Project activities. Please note that even the best survey may fail to detect the presence of the species. Surveys involving capture and handling of Crotch's bumble bee should only be conducted by individuals who possess a CESA Memorandum of Understanding authorizing take of the species for scientific, educational, or management purposes.		
Recommendation 6: Crotch's Bumble Bee Nest Avoidance If Crotch's bumble bee nests are identified, a no disturbance buffer zone should be established around each nest to reduce the risk of disturbance or accidental take. The buffer zone should be a minimum of 15 meters and should be expanded as necessary to prevent disturbance.	Prior to ground or vegetation disturbance	City
Recommendation 7: Crotch's Bumble Bee Habitat Compensation Any floral resources associated with Crotch's bumble bee that are removed or damaged by Project implementation should be replaced at a 1:1 ratio at a minimum. Floral resources should be replaced as close to their original location as is feasible. If active Crotch's bumble bee nests have been identified and floral resources cannot be replaced within 200-meters of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 1.5-kilometers from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests. These floral resources should be maintained in perpetuity and should be replanted and managed as needed to ensure the habitat is preserved.	Prior to ground or vegetation disturbance	City

Recommendation 8: Nesting Bird Avoidance To protect nesting birds that could occur on or near the Project site, the City should include a measure that precludes ground and vegetation disturbing Project activities between February 15 and August 31. If Project activities during this period must occur, the City should conduct a complete survey for nesting bird activity within a 500-foot radius of the Project site. If any nests are found, they should be protected by a protective buffer between Project activities and the nest. The buffer should be adequately large to prevent disturbance to the breeding birds. The City should have a biological monitor onsite to evaluate the effectiveness of the buffer and increase its width as needed.	Prior to Project activities	City
Recommendation 9: Evaluation of Effects on Aquatic Species Analysis of the effects of the Project should include the potential of the Project to result in reduced flows that may affect California red-legged frog and other amphibian and aquatic species, as well as the potential to affect the health of riparian vegetation that provides important habitat for least Bell's vireo and other sensitive birds.	Prior to adopting ND	City
Recommendation 10: Mitigation of Effects on Aquatic Species If the City's re-evaluation determines such impacts could occur, the City should develop mitigation measures to reduce impacts to a less than significant level. Mitigation measures should be feasible, effective, implemented, and fully enforceable. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.	Prior to adopting ND	City