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Akanksha Chopra, Associate Planner
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Subject: 2045 General Plan Reset, Draft Program Environmental Impact Report, SCH No. 2024060037, City of San Carlos, San Mateo County

Dear Akanksha Chopra:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Program Environmental Impact Report (DPEIR) from the City of San Carlos (City) for the 2045 General Plan Reset (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines. CDFW previously submitted comments in response to the Notice of Preparation of the DPEIR.

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, we appreciate 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. (*Id.*, § 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 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 (LSA) 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 of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. Under CESA, take is defined as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Fully protected species may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515.)

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et. seq.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Any impacts to the mainstems, tributaries and floodplains or associated riparian habitat would likely require an LSA Notification. CDFW, as a responsible agency under CEQA, will consider the DPEIR for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA as the responsible agency.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

Fully Protected Species

Fully protected species, such as San Francisco garter snake (*Thamnophis sirtalis tetrataennia*), California Ridgway's rail (*Rallus obsoletus obsoletus*, formerly California clapper rail) or California Black rail (*Laterallus jamaicensis coturniculus*) may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the Project planning process.

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Carlos

Objective: The objective of the Project is to plan for the growth of San Carlos over a 20-year time horizon and to: allow for a mix of development to support the City's economic resiliency and to sustain a robust local economy; preserve, protect, and promote industrial, commercial, and office uses to maintain a thriving ecosystem of local businesses and to provide for local jobs; provide a mix of housing that meets the needs of a diverse community, as outlines in the 2023-2031 Housing Element and for future Housing Element cycles; and make minor updates to the 2030 General Plan to reference recent City initiatives, plans, or new State regulations.

Location: City of San Carlos, San Mateo County, CA 94070.

Timeframe: 2025-2045

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. Editorial comments or other suggestions may also be included to improve the document.

I. Project Description and Related Impact Shortcoming

COMMENT 1: Program EIR Subsequent Project Review

The Project EIR has been prepared as a draft Program EIR pursuant to CEQA Guidelines Section 15168 but the Program EIR does not include a checklist for subsequent project review. While Program EIRs have a necessarily broad scope, CDFW recommends providing as much information related to anticipated future activities as possible. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a project of a more limited geographical scale and is appropriate if the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. The CEQA Guidelines section 15168, subdivision (c)(4) states, "Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR." Based on CEQA Guidelines section 15183.3 and associated Appendix N Checklist, and consistent with other program EIRs, CDFW recommends creating a procedure or checklist for evaluating subsequent Project impacts on biological resources to determine if they are within the scope of the Program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the EIR. Future analysis should include all special-status species and sensitive habitat including but not limited to species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380.

When used appropriately, the checklist should be accompanied by enough relevant information and reasonable inferences to support a "within the scope" of the EIR conclusion. For subsequent Project activities that may affect sensitive biological

resources, a site-specific analysis should be prepared by a Qualified Biologist to provide the necessary supporting information. In addition, the checklist should cite the specific portions of the EIR, including page and section references, containing the analysis of the subsequent Project activities' significant effects and indicate whether it incorporates all applicable mitigation measures from the EIR.

II. Environmental Setting and Mitigation Measure Related Impact Shortcomings

MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

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 CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 2: Nesting Birds, Section 4.3.3, Page 4.3-18- 4.3-20

Issue: Nesting birds, including American Peregrine falcon (*Falco peregrinus anatum*) and Alameda song sparrow (*Melospiza melodia pusillula*), have the potential to nest on the ground, in trees, on structures, or in vegetation within and in the vicinity of the EIR Study Area. The DPEIR states that "development in locations abutting or in the vicinity of open space lands or water resources, where special status species are more likely to occur, could potentially cause a significant impact to, or cause the inadvertent loss, of bird nests in active use." Though not mentioned in the DIER, the City of San Carlos General Plan Environmental Management Element contains an action item (Action EM-1.5) requiring "major new buildings and taller structures that extend above the existing surrounding urban fabric and height of the tree canopy be designed to minimize the potential risk of bird collisions using input from the latest bird-safe design guidelines and best management practice strategies to reduce bird strikes." However, the DPEIR lacks specific avoidance, minimization and mitigation measures to protect nesting birds sufficient to reduce potential impacts to less-than-significant levels.

Specific impact, why the impact would occur, and evidence the impact would be significant: The federal MBTA and California Fish and Game Code protect migratory and nesting birds, including species with potential to occur in the Project area (e.g., American falcon and Alameda song sparrow). The nesting seasons for passerines, owls, and raptors range from February 15- August 30, January 15- September 15, and February 15- September 15, respectively.

Recommendation 2: CDFW recommends the PEIR include avoidance and minimization measures to protect nesting birds by incorporating the mitigation measure below to reduce potential impacts to less-than-significant levels:

Recommended Nesting Bird Mitigation Measure: If Project grading or construction is scheduled to take place between January 15 – September 15, a preconstruction survey of the Project vicinity for nesting birds shall be conducted by a qualified biologist experienced with the nesting behavior of bird species of the region. The survey shall determine if active nests are present within the planned area of disturbance or within 250 feet for passerines, 500 feet for accipiters and 1,000 feet for buteos. The survey shall be performed no more than seven days prior to the commencement of construction activities, and a second focused survey shall be conducted within 48 hours prior to construction activities that would occur during the nesting/breeding season. If ground disturbance activities are delayed following a survey, then an additional preconstruction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities. If a lapse of Project-related activities of seven days or longer occurs, another focused survey will be conducted before Project activities can be reinitiated.

If an active bird nest is found within the survey radii, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active nest. A protective buffer distance shall be established by a qualified biologist based on the site conditions such as whether the nest is in a line of sight of the construction and the sensitivity of the birds nesting. Typical protective buffers are as follows: 1) 250 feet for passerines, 2) 500 feet for accipiters, and 3) 1,000 feet for buteos. No Project personnel or equipment shall be allowed to enter the protective buffer until the qualified biologist determines that the young have fully fledged and will no longer be adversely affected by the Project.

The qualified biologist shall observe any identified active nests prior to the start of any construction-related activities to establish a behavioral baseline of the adults and any nestlings, and the nest site(s) shall be monitored by the biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. The perimeter of the nest setback zone shall be fenced or adequately demarcated with stakes and flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report by the qualified biologist verifying that no active nests are present, or that the young have fledged, shall be submitted prior to initiation of grading in the nest-setback zone. The qualified biologist shall serve as a biological monitor during those periods when construction activities occur near active nest areas to

ensure that no inadvertent impacts on these nests occur. All buffers shall be shown on all sets of construction drawings.

COMMENT 3: Bats, Section 4.3.3, Page 4.3-18- 4.3-20

Issue: The DPEIR states that special-status bats such as the pallid bat (*Antrozous pallidus*) have the potential to occur within the EIR Study Area and that there exists potential for species loss or disruption "due to conversion of areas of natural habitat, removal of trees and other vegetation, increases in light and noise, and other modifications and disturbance," a potentially significant impact under CEQA. The DPEIR does not include measures to avoid, minimize, and/or mitigate potentially significant impacts to roosting bats.

Specific impact, why the impact would occur, and evidence the impact would be significant: Bats play an important role in Bay Area ecosystems, through pest control, pollination and seed dispersal. Recent studies estimate that bat consumption of insect pests results in more than $3 billion in agricultural production savings per year in the U.S. (USFWS 2025). Bats are known to roost under bridges, in caves and mines, on buildings, in cliff crevices, in tree foliage, bark, and hollows, and in riprap, with habitat use varying temporally and seasonally. Suitability of bat roosting habitat is dependent on temperature, protection from predators and inclement weather, and proximity to foraging sites. Habitat reduction and disruption of hibernation and maternity roosts due to human development and activity have contributed to steep population declines in California and across the globe. Many bat species are long lived, with most females birthing only one to two young per year. Due to low reproductive rates and sensitivity of breeding females to disruption, maternity colonies affected by human activities that temporarily reduce fecundity or mortality may require multiple years to recover following disturbance events (California Department of Transportation [Caltrans] 2019).

Recommendation 3: CDFW recommends including avoidance and minimization measures to protect bats that have the potential to occur within the PEIR Study Area, and recommends incorporating the following mitigation measure:

Recommended Bat Mitigation Measure: At any Project site where trees or abandoned buildings would be removed or heavily modified, prior to Project activities that would remove trees or modify buildings, a qualified biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to the beginning of Project activities.

For tree removal, the habitat assessment shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species). If suitable

habitat is found, it shall be flagged or otherwise clearly marked. Trees shall be removed only if:

a) Presence of bats is presumed or documented during surveys in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15, and September 1 through October 15, or;

b) After a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats.

Two-step tree removal shall be conducted over two consecutive days. On the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided. On the second day the remainder of the tree shall be removed.

For modification of buildings, a qualified biologist shall conduct a survey for roosting bats. If roosting bats are detected, a bat avoidance and exclusion plan shall be implemented. The plan shall recognize that both maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15, or September 1 and October 15 when temperatures are sufficiently warm. Work operations shall cease if bats are found roosting within the Project area, and CDFW shall be consulted.

For loss of suitable bat habitat trees or impacts to buildings or structures occupied by bats subject to bat avoidance measures, the Project shall provide habitat mitigation in the form of:

1) Native tree planting at an appropriate ratio to offset canopy and temporal habitat loss and tree planting maintenance for a minimum of five years and until success criteria are met, or;

2) Establishing suitable bat habitat structures.

A qualified biologist shall prepare and submit a bat habitat mitigation plan to CDFW and obtain CDFW’s approval of the plan prior to the start of Project activities, and shall implement the plan, unless otherwise approved in writing by CDFW.

COMMENT 4: San Francisco Garter Snake, Section 4.3.3, Page 4.3-18- 4.3-20

Issue: San Francisco garter snake (SFGS) has the potential to occur within the Project Study Area, but the DPEIR does not adequately discuss or evaluate to what extent Project development could cause direct and/or indirect impacts to SFGS individuals or habitat. Additional impact assessment information is needed for CDFW to confirm Project protective measures will avoid direct and/or indirect impacts to SFGS and their habitat Delineations of SFGS habitat components by a qualified expert are necessary to determine areas where these species may occur within the Project area.

Specific impact, why impact would occur, and evidence impact would be significant: SFGS is a State Fully Protected species and is listed as endangered under CESA. SFGS require a variety of habitats, including aquatic breeding habitat and upland dispersal habitat. SFGS have been documented to disperse up to half a mile from aquatic breeding sites. Far-dispersing individuals provide genetic diversity to distant breeding sites and thus aid the survival of small, disparate populations. Construction and maintenance activities in suitable habitat could result in direct and indirect take to SFGS. Project development could injure or kill SFGS if they occur on-site, potentially resulting in a substantial reduction of their populations. Indirect take may occur due to upland habitat loss and degraded site suitability for SFGS to complete all stages of their life cycle.

SFGS are endemic snakes with a highly limited range in the San Francisco Peninsula. They utilize a variety of habitats including upland sites for basking, rodent burrows for shelter and low-lying marsh for feeding and reproduction (USFWS 1985). In coastal areas, SFGS may hibernate during the winter in small mammal burrows (USFWS, 2007). SFGS are threatened by loss of habitat from agricultural, commercial, and urban development, illegal collection by reptile breeders, and decline of their prey species, California red-legged frog (*Rana draytonii*).

SFGS are CESA listed as endangered species and therefore are a threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if SFGS are injured or killed, or their habitat is removed as a result of Project development, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species or endangered species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommendation 4: CDFW recommends the PEIR include additional information to facilitate meaningful review and understanding of Project impacts on SFGS habitat and populations. Protective buffers should be identified in the PEIR and include migration corridors, breeding and non-breeding habitat, as well as adjacent

land necessary to protect these areas. Establishing appropriately sized construction buffers and protected areas that consider both short- and long-range SFGS dispersal is essential to protect SFGS individuals, populations, and habitat. Specifically, the PEIR should describe the extent of temporary and permanent impacts that would occur to SFGS breeding and/or upland habitat. Additionally, CDFW recommends the PEIR incorporate the following mitigation measure:

Recommended San Francisco Garter Snake Mitigation Measure: The Project and all tiered projects shall be designed to avoid impacts to SFGS individuals and habitat. Protocol-level surveys for SFGS individuals and habitat shall be performed by an agency-approved qualified biologist prior to construction in or adjacent to potentially suitable SFGS aquatic and/or upland habitat, including wetlands, riparian areas, grasslands near ponds/wetlands, or other sensitive habitat, following survey protocols approved by USFWS and CDFW. An agency-approved qualified biologist, in consultation with USFWS and CDFW, shall determine appropriate, site-specific buffers to protect SFGS breeding and upland habitat prior to conducting grading or other construction activities.

COMMENT 5: Crotch's Bumble Bee, Section 4.3.3, Page 4.3-18- 4.3-20

Issue: The DPEIR does not identify potential impacts to Crotch's bumble bee (*Bombus crotchii*, CBB). The current range of CBB encompasses the proposed EIR Study Area, and proposed Project activities could impact bumble bees if they are present on-site. The DPEIR does not include avoidance, minimization or mitigation measures to protect potential CBB that may occur within the Project area.

Specific impacts, why they may occur and be potentially significant: CBB is a candidate species under CESA and therefore should be considered a threatened, endangered, or rare species under CEQA pursuant to CEQA Guidelines section 15380. Many bumble bee species, including CBB, once common in the western United States, have undergone a dramatic decline in both distribution and abundance and are now extirpated from much of their historic ranges. Many bumble bees are threatened with extinction due primarily to reductions in habitat from urbanization, intensive agriculture, and invasive species introductions.

Bumble bees, including CBB, are found in a wide variety of natural, agricultural, urban and rural habitats, and require suitable nesting and overwintering sites as well as availability of nectar and pollen from floral resources (Hatfield et al. 2018). Potential nest habitat utilized from late February to late October includes underground abandoned small mammal burrows, perennial bunch grasses and/or thatched annual grasses, brush piles, old bird nests, dead trees, or hollow logs. Overwintering sites are utilized from November through early February by mated queens in self-excavated hibernacula, and could be present in soft, disturbed soil,

sand, well-drained or loose soils, under leaf litter or other debris with ground cover requisites such as barren areas, tree litter, and bare patches within short grass in areas lacking dense vegetation. Any near-surface or subsurface ground disturbance within Project sites could result in the direct take of bumble bee colonies or overwintering queens. Bumble bees are generalist foragers, and do not depend on any one flower type, often visiting native and non-native flowering plants alike to collect the pollen and nectar resources needed to sustain their colonies and provision nest cells. Vegetation removal, including removal of any flowering plants or trees within the EIR Study Area, could impact bumble bee habitat.

If CBB are injured or killed, or their habitat is removed as a result of Project development, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species or endangered species, a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommendation 5: CDFW recommends the PEIR provide an assessment of the potential for the Project to impact CBB, and to incorporate the following mitigation measure to avoid, minimize, and mitigate potential impacts on CBB.

Recommended Crotch's Bumble Bee Mitigation Measure: CBB habitat assessments shall be performed in Project sites that may provide suitable CBB habitat and that could be impacted by Project development. The habitat assessment shall be conducted by a qualified biologist knowledgeable with the life history and ecological requirements of CBB, and include all areas of suitable overwintering, nesting, and foraging habitats within 100 feet of proposed work areas.

In areas with potential CBB habitat, pre-construction surveys for CBB individuals shall be conducted by a qualified biologist between March to August. Surveys shall include a minimum of three survey efforts, over a three-day period within a temperature range of 15C and 30C. If the qualified biologist suspects CBB detection or occupancy, CDFW shall be consulted immediately. CBB survey results shall be considered valid for one year at a given site, but additional surveys shall be performed prior to ground-disturbing activities at the discretion of the qualified biologist in consultation with CDFW. If surveys document the presence of CBB within Project sites, the City shall consult with CDFW prior to construction to determine if a CESA ITP authorization is required.

Further, if CBB are detected during surveys, the qualified biologist shall identify the location of all nests in or adjacent to Project sites. If nests are identified, a minimum 45-foot no-disturbance buffer zones shall be established around nests.

The qualified biologist shall expand buffer zones as necessary to prevent disturbance and avoid take.

Bumble bee floral resources shall be mitigated at a 3:1 ratio for any permanent impacts to CBB habitat. Floral resources shall be replaced as close to their original location as is feasible. If active CBB nests have been identified and floral resources cannot be replaced within 600 feet of their original location, floral resources shall be planted in the most centrally available location relative to identified nests. This location shall be no more than 4,900 feet (1.5-kilometers) from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests.

COMMENT 6: California Ridgway's Rail and California Black Rail, Section 4.3.3, Page 4.3-18- 4.3-20

Issue: The DPEIR depicts the Study Area as occurring adjacent to and upstream of northern coastal salt marsh habitat that supports populations of California Ridgway's rail (CRRA) and California black rail (BLRA). The extent of the Study Area contains coastal creeks that drain into San Francisco Bay through a series of sloughs along Bair Island and may serve as wildlife movement corridors for species that are known to occur in the vicinity. Though the DPEIR identifies CRRA and BLRA as occurring in the vicinity of the EIR Study Area, it does not include analysis of the potential for Project development to impact these species, nor does it include measures to avoid, minimize or mitigate potentially significant impacts to CRRA or BLRA.

Specific impact, why impact would occur, and evidence impact would be significant: CRRA is a state and federally endangered and state fully protected species, and BLRA is a state threatened and state fully protected species. These species are at great conservation risk and are experiencing serious population declines or range retractions. Project activities could include impacts such as generation of noise, groundwork, and operation and movement of equipment and workers that would have the potential to disturb CRRA or BLRA foraging, roosting, and nesting. Direct mortality of CRRA or BLRA could occur through nest abandonment, loss of potential foraging habitat resulting in reduced reproductive success (loss or reduced health or vigor of eggs or young), inadvertent entrapment or entrainment, or impingement.

If CRRA or BLRA are injured or killed, or their habitat is removed as a result of Project development, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species or endangered species, a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommendation 6: CDFW recommends the PEIR provide an assessment of the potential for the Project to impact CRRA and BLRA, and incorporate the following mitigation measure to avoid, minimize, and mitigate potential impacts on these species.

Recommended CRRA and BLRA Mitigation Measure: A CDFW and USFWS-approved biologist shall conduct protocol-level surveys of CRRA and BLRA in all suitable habitats adjacent to the Project using the 2017 California Clapper Rail Survey Protocol to determine where CRRA or BLRA are present in each year of construction (Wood et al. 2017). CDFW staff are available to collaborate to incorporate calls of BLRA into the protocol to ensure that both species are sufficiently surveyed.

If CRRA or BLRA are found in suitable habitat near the Project site, appropriate buffers shall be incorporated to avoid and minimize impacts to CRRA and BLRA. A 700-foot no-work buffer shall be implemented between construction activities and any current-year breeding CRRA and BLRA detections if construction cannot be avoided during the rail breeding season (January 15- August 31 for CRRA, February 1- August 31 for BLRA). If establishing a 700-foot buffer around, breeding rail detections is not feasible, noise reducing modifications to equipment as well as portable acoustic barriers/blankets placed near noise sources may be appropriate to reduce auditory and visual impacts to breeding rails. Note that these noise reduction features may be appropriate regardless of time of year to minimize impacts to foraging rails as well. A qualified avian biologist shall advise and support buffer establishment in consultation with CDFW.

Fully protected species such as CRRA and BLRA may not be taken or possessed at any time. In the event a fully protected species is found within or adjacent to the Project site, an agency-approved qualified biologist shall implement an appropriate no-disturbance buffer and allow the individual to leave the Project site of its own volition. The qualified biologist shall also be on-site during all Project activities to ensure that fully protected species are not being disturbed by Project activities.

COMMENT 7: Special-Status Plants, Section 4.3.3, Page 4.3-18- 4.3-20

Issue: The DPEIR identifies the potential for special-status plant species to occur within the Study Area, including Franciscan onion (*Allium peninsulare* var. *franciscanum*), San Francisco collinsia (*Collinsia multicolor*), western leatherwood (*Dirca occidentalis*), Hillsborough chocolate lily (*Fritillaria biflora* var. *ineziana*), arcuate bushmallow (*Malacothamnus arcuatus* var. *arcuatus*), woodland woolleythreads (*Monolopia gracilens*), chaparral ragwort (*Senecio aphanactis*), alkali milk-vetch (*Astragalus tener* var. *tener*), San Joaquin spearscale (*Extriplex*

joaquinana), and Contra Costa goldfields (*Lasthenia conjugens*), yet the DPEIR does not provide avoidance, minimization or mitigation measures to address potential temporary or permanent impacts to these species due to Project development.

Specific impact, why impact would occur, and evidence impact would be significant: Hillsborough chocolate lily and Contra Costa goldfields have a California Rare Plant Rank (CRPR) or 1B.1, and Franciscan onion, San Francisco collinsia, western leatherwood, arcuate bushmallow, woodland woolleythreads, alkali milk-vetch, and San Joaquin spearscale all have a CRPR of 1B.2. Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most plants that are ranked 1B have declined significantly over the last century. The additional threat rank of 0.1 and 0.2 indicates that over 80 percent, and 20 to 80 percent of their occurrences are threatened, respectively. Chaparral ragwort has a CRPR of 2B.2, and is threatened in California but more common elsewhere, with 20 to 80 percent of its occurrences threatened.

The conservation of special-status native plants is essential to maintaining biodiversity in the California Bay Area. Native plants are better adapted to the local environment, allowing them to grow more efficiently, require less maintenance, and provide habitat resources for other native species (Berthon et al. 2020). Industrial land development is a leading threat to endangered plant communities, causing resource depletion through direct habitat replacement and increased input of pollutants into the environment (Czech et al. 2000). Limited distribution and small population sizes of special-status plants can increase the difficulty in species detection, and robust survey efforts are imperative to determine whether plant species protected under the CESA and NPPA occur within the Project area. Robust and timely survey efforts are a necessary first step in avoiding take of listed species.

Consistent with CEQA Guidelines, section 15380, the status of special-status plants as CRPR 1 or 2 species qualifies them as endangered, rare, or threatened species under CEQA (see: https://www.cnps.org/rare-plants/california-rare-plant-ranks). If special-status plants occur within or adjacent to Project sites and would be directly or indirectly impacted by Project development, the Project may result in a substantial reduction in the number or restriction in the range of endangered, rare, or threatened species, a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a).

Recommendation 7: CDFW recommends the PEIR incorporate the following mitigation measure to avoid, minimize, and mitigate potential impacts on special-status plants.

Recommended Special-Status Plant Mitigation Measure: Prior to construction at all Project sites not composed of hardscape or ornamental vegetation, a qualified biologist shall conduct botanical surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur at or adjacent to each site where plants could be indirectly impacted. Surveys shall be conducted following CDFW's *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants) and include checking reference sites for target special-status plant species. Per this protocol, more than one year of surveys may be necessary if, for example, lack of rain inhibits growth of annual plants. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and provide an avoidance plan to CDFW and obtain CDFW written approval of the plan. If full avoidance is not possible, Project activities may not commence until the Project has consulted with CDFW and obtained CDFW's written approval prior to the start of construction, which may include salvaging topsoil, transplanting and monitoring individuals, compensatory habitat mitigation, or other measures, based on the life history of the species and other relevant factors.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 8: Riparian Delineation and Setbacks, Section 4.3.3, Page 4.3-21

Issue: The DPEIR describes existing conditions and includes a figure depicting vegetation and habitat types that are found within the extent of the Project Study Area. The DPEIR states that "although mostly urbanized, Pulgas, Brittan, Belmont and Cordilleras Creeks support areas of riparian habitat." Though the DPEIR references goals and policies within the 2045 General Plan Reset that would be protective of riparian areas, those areas of riparian habitat adjacent to Pulgas, Brittan, Belmont and Cordilleras Creeks are not depicted in the map of vegetation and habitat types in the DPEIR, nor is their extent described elsewhere. Additionally, the DPEIR states that future development would be required to comply with SCMC Section 18.144.040, which requires a 25-foot setback from the top of bank on each side of the creek to protect waterways.

Per CEQA Guidelines section 15125 (a), EIRs must include descriptions of the physical environmental conditions in the vicinity of the Project, and this environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant, the purpose of which is to give the public and decision makers the most accurate and

understandable picture practically possible of the Project's likely near-term and long-term impacts. The DPEIR does not provide sufficient information on the location, extent, or species composition of riparian areas adjacent to Cordilleras, Belmont, Brittan or Pulgas Creeks, in order to facilitate meaningful review of potential significant impacts of future development within the EIR Study Area. Further, in the absence of sufficient information to establish baseline physical conditions, it is unclear whether 25-foot riparian setbacks as prescribed in SCMC Section 18.144.040 would be sufficient to reduce potentially significant impacts of Project development on riparian habitat to less-than-significant levels. Lastly, Streambank armoring (e.g., with riprap and other hardscape materials) has the potential to result in significant impacts to stream resources and is commonly needed and reasonably foreseeable where riparian buffer distances are not sufficiently wide.

Specific impact, why impact would occur, and evidence impact would be significant: Riparian vegetation, and associated floodplains, provide many essential benefits to stream and aquatic species habitat (Moyle 2002, CDFW 2007). As stated in the DPEIR, "riparian habitat is a distinct plant community found along the margins of creeks and rivers," and "has a very high value to wildlife and generally exhibits a rich and diverse animal community." Development adjacent to the riparian zone can result in fragmentation of riparian habitat and decreases in native species abundance and biodiversity (Davies et al. 2001, Hansen et al. 2005, CDFW 2007). Riparian buffers help keep pollutants from entering adjacent waters, benefiting species who rely on those waters for habitat and drinking water. Narrow riparian buffers are considerably less effective in minimizing the effects of adjacent development than wider buffers (Castelle et al. 1992, Brosofske et al. 1997, Dong et al. 1998, Kiffney et al. 2003, Moore et al. 2005).

Riparian habitats also contribute to bank stability and provide flood protection. Development, including increases in impervious surfaces and installation of stormwater systems and storm drain outfalls, can modify natural streamflow patterns by increasing the magnitude and frequency of high flow events and storm flows (Hollis 1975, Konrad and Booth 2005). Riparian habitat and adjacent wetlands and floodplains are critical to lessening these impacts because they store and meter floodwaters, recharge groundwater aquifers, trap sediment, filter pollution, help minimize erosion, lessen peak flow velocities, and protect against storm surges. In doing so, they protect adjacent upland, down-stream, and coastal properties from loss and damage during flooding and help maintain surface and groundwater during summer months.

One goal of the 2045 General Plan Reset Environmental Management Element is to "promote healthy streams and riparian corridors." Policy LU-1.9 of the 2045 General Plan Reset is to "retain the channels, floodplains, riparian corridors (including suitable setbacks from the top of bank) and closely associated upland areas of

Cordilleras, Brittain and Pulgas Creeks and their tributaries as significant open space areas" to "function as appropriate open space areas, greenbelt and to support a riparian habitat."

Recommendation 8: CDFW recommends the PEIR include sufficient information to facilitate meaningful review of potentially significant impacts of Project development within riparian habitat. Specifically, CDFW recommends conducting habitat assessments to determine the location, extent, and vegetation composition of riparian areas in the EIR Study Area and include this information in detailed map depictions in the PEIR. CDFW also recommends the PEIR include supporting technical analysis to demonstrate the proposed 25-foot riparian buffer distance is protective of stream resources. In addition to establishing a minimum riparian buffer such as the proposed 25-foot distance, the following site-specific mitigation measure is recommended for inclusion in the PEIR to protect riparian areas:

Recommended Riparian Setback Mitigation Measure: Prior to project development in the vicinity of streams, wetlands, or other aquatic areas, an agency-approved qualified biologist shall conduct habitat surveys to identify riparian boundaries and determine the size of **site-specific buffers** necessary to protect riparian areas. Consideration for appropriate riparian buffer widths shall depend on site-specific characteristics such as the area and type of habitat to be buffered, the presence of habitat for sensitive species and their potential habitat use, site topography, slope, slope stability, and soils present at a particular site.

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). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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 DPEIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Shannon Husband, Environmental Scientist, at (707) 337-1364 or Shannon.Husband@wildlife.ca.gov; or Wesley Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
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