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Cindy McCormick, Planning Manager
City of Gilroy
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Subject: Ren Flu Villa Residential Project, Initial Study/ Mitigated Negative Declaration, SCH No. 2024080035, City of Gilroy, Santa Clara County

Dear Ms. McCormick:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (IS/MND) from the City of Gilroy (City) for the Ren Fu Villa Residential Project (Project) pursuant 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, 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

[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.

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.

REGULATORY REQUIREMENTS

California Endangered Species Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any Project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. € & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, does not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting rivers, 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 is 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**.** Therefore, any impact to the mainstems, tributaries, or

floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification.

Migratory Birds and Raptors

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 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

Several Fully Protected Species (Fish & G. Code § 3511 and 4700) have the potential to occur within or adjacent to the Project area, including, but not limited to: bald eagle (*Haliaeetus leucocephalus*), California least tern (*Sternula antillarum browni*), golden eagle (*Aquila chrysaetos*), and white-tailed kite (*Elanus leucurus*).

Project activities described in the IS/MND should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. Fully protected species 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;
- They are a covered species whose conservation and management are provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515); or
- 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).

CDFW also recommends the IS/MND analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the City include in the analysis how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species. Project proponents should consult with CDFW early in the Project planning process.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Gilroy

Objective: The Project proposes a Zoning Map amendment to rezone the property to Residential Hillside, consistent with the 2040 General Plan Hillside Residential land use designation, and a Tentative Map to subdivide the site into 54 lots. The Project would also include a private club house that would be located on the western side of the site. The Project would construct new streets, utility lines, and parking for the proposed residences. The existing creek and pond located in the central portion of the site would be preserved in place.

Location: The Project is located South of Santa Teresa Boulevard and adjacent to Miller Avenue, City of Gilroy, Santa Clara County (County). The coordinates for the approximate center of the Project are 36°59'6.38"N latitude 121°35'0.46"W longitude (WGS 84). The Assessor's Parcel Number is 810-23-005.

Timeframe: Phase 1 would start as early as January 2025 and be completed as early as July 2026. Phase 2 would start as early as August 2026 and be completed as early as September 2027.

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.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand any potentially significant impacts on the environment of the proposed Project (CEQA Guidelines, §§15063 & 15360). CDFW recommends that a full list or table is included in the updated Biological Resources Section of the IS/MND that notes species common name, scientific name, state and federal listing status (as applicable), habitat type preference and determination on presence, for all special-status species with the potential to occur within the Project area.

CDFW recommends the IS/MND provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, and endangered species (CEQA Guidelines, §15380). The IS/MND should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or

riparian habitat occurring on or adjacent to the Project area (for sensitive natural communities see: https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20 communities), and any stream or wetland set back distances the City or County may require.

CDFW recommends that the California Natural Diversity Database (CNDDB), as well as previous studies performed in the area, be consulted to assess the potential presence of sensitive species and habitats. A nine U.S. Geologic Survey 7.5-minute quadrangle search is recommended to determine what may occur in the region, larger if the Project area extends past one quad (see Data Use Guidelines on the Department webpage https://wildlife.ca.gov/Data/CNDDB/Maps-and-Data). Please review the webpage for information on how to access the database to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the Project. CDFW recommends that CNDDB Field Survey Forms be completed and submitted to CNDDB to document survey results. Online forms can be obtained and submitted at: https://wildlife.ca.gov/Data/ CNDDB/Submitting-Data. Please note that CDFW's CNDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the potential presence of species within the general area of the Project site. Other sources for identification of species and habitats near or adjacent to the Project area should include, but may not be limited to, State and federal resource agency lists, California Wildlife Habitat Relationship System, California Native Plant Society Inventory, agency contacts, environmental documents for other projects in the vicinity, academics, and professional or scientific organizations. Only with sufficient data and information can the City adequately assess which special-status species are likely to occur in the Project vicinity.

According to Biogeographic Information and Observation System (BIOS) records, the Project site contains positive detections of several special-status species and has the potential to support numerous special-status species and their associated habitat. Species with potential to occur on-site include but are not limited to those listed in Attachment 1.

I. Environmental Setting and Related Impact Shortcoming

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 #1: Special-status Herpetofauna

Issue: The Project may impact western pond, which the IS/MND stated are known to be present on the Project site. The Project may impact the following special-status herpetofauna, which the IS/MND identified have the potential to occur at the Project: California tiger salamander (*Ambystoma californiense* pop. 1) and California red-legged frog (*Rana draytonii*). The CNDDB identifies occurrences of all three species within five miles of the Project. Additionally, the IS/MND did not include aquatic surveys. Implementation of the Project may impact aquatic habitat or upland dispersal habitat or refugia for special-status herpetofauna through vegetation removal and grading activities, potentially injuring or killing them.

The Project would impact the pond and surrounding habitat that may be occupied by these species. Western pond turtle (*Actinemys marmorata*) can move more than four miles up or down stream. Therefore, the Project area is within the mobility range of western pond turtle observations (Holland 1994). The species may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015).

California tiger salamander have been documented moving up to 1.3 miles from ponds to upland habitat (Orloff 2007). California red-legged frog can use upland habitat one to two miles away from breeding ponds, including habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and even man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2010).

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Recommended Mitigation Measure #1: Habitat Surveys

For all Project activities that occur within 500 feet of a pond or wetland habitat, prior to ground-disturbing activities, a qualified biologist should conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of California tiger salamander, California red-legged frog, and western pond turtle and their nests. If any of these special-status species are discovered during the survey, Project activities should not begin until CDFW has been consulted and approved in writing measures to avoid and minimize impacts to special-status species, and the measures have been implemented

Recommended Mitigation Measure #2: Take Authorization

CDFW strongly recommends that the Project proponent apply for an ITP under CESA to provide take authorization for California tiger salamander as a covered species. The

IS/MND should clearly state, as a condition of approval, that the Project proponent will apply for an ITP well in advance of Project construction.

The IS/MND should also include an appropriate compensatory mitigation ratio. CDFW recommends a minimum 3:1 ratio for permanent impacts to breeding and/or upland dispersal habitat, and a 1:1 mitigation ratio for temporary impacts in the absence of information regarding the compensatory mitigation site, and the full restoration of the temporarily disturbed habitat. This amount of mitigation may serve to meet the full mitigation standard required under CESA. The IS/MND should also state that mitigation lands will be protected in perpetuity under a conservation easement with an endowment established for long-term management of the lands.

COMMENT #2: Crotch's Bumble Bee

Issue: As stated in the IS/MND Crotch's bumble bee (state candidate endangered, *Bombus crotchii*) has the potential to use the Project site for foraging and/or nesting. Crotch's bumble bee is a candidate endangered species under CESA (CEQA Guidelines, §15380, subds. (c)(1)). Implementation of the Project may result in the direct mortality of this species through crushing or filling of active bee colonies and hibernating bee cavities, reduced reproductive success, loss of suitable breeding and foraging habitats, loss of native vegetation that may support essential foraging habitat. Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq.

Crotch's bumble bee occurrences have been documented in the County and the Project location is within the historic Crotch's bumble bee range (BIOS 2024). The small mammal burrows and grassland within and adjacent to the Project area may contain potential habitat for Crotch's bumble bee. Bumble bees are critically important because they pollinate a wide range of plants over the lifecycles of their colonies, which typically live longer than most native solitary bee species. The Project may impact foraging and nesting habitat due to construction of permanent facilities and associated infrastructure.

Recommended Mitigation Measure #3: Surveys

The IS/MND should state that pre-construction surveys will be conducted within the Project area and surrounding areas which may be impacted by Project construction and/or operations. Surveys shall be conducted by a qualified entomologist familiar with the behavior and life history of Crotch's bumble bee. Surveys shall be conducted during the colony active period (i.e. April through August) and when floral resources are in peak bloom. Bumble bees move nest sites each year, therefore, surveys shall be conducted each year that Project work activities will occur. Further guidance on presence surveys can be found within *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*

(https://wildlife.ca.gov/Conservation/CESA). If CESA candidate bumble bee will be captured or handled, surveyors should obtain a 2081(a) Memorandum of Understanding (MOU) from CDFW.

Recommended Mitigation Measure #4: Avoidance of Nesting Colonies

CDFW recommends that inactive small mammal burrows and thatched/bunch grasses be avoided whenever feasible. If an inactive burrow may be disturbed by Project activities, it should be resurveyed for Crotch's bumble bee presence within seven days prior to the scheduled disturbance. If Crotch's bumble bee has been detected during surveys, the qualified entomologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 45-foot no-disturbance buffer zones should be established around nests to reduce the risk of disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified entomologist should expand the buffer zone as necessary to prevent disturbance or take.

Recommended Mitigation Measure #5: Take Authorization

If surveys document presence of Crotch's bumble bee within the Project area, due to the difficulty of completely avoiding take of individuals of the species, CDFW strongly recommends that the Project proponent apply for an ITP under CESA to provide take authorization for Crotch's bumble bee as a covered species.

COMMENT #3: Nesting Birds

Issue: The IS/MND states that the Project has the potential to disturb nesting habitat for birds and raptors and would result in the permanent loss of suitable nesting habitat including the removal of 42 trees, including 25 protected trees. However, the IS/MND does not adequately mitigate potential impacts to nesting birds protected under the MBTA and/or Fish and Game Code because it does not identify suitable nesting seasons or buffers for active nests within or near the Project area. California least tern, Cooper's hawk (*Accipiter cooperii*), golden eagle, least Bell's vireo (*Vireo bellii pusillus*), northern harrier (*Circus hudsonius*), and white-tailed kite occurrences have been documented within the vicinity of the Project area and historic observations occur elsewhere in the County (CDFW 2024, CNDDB 2024).

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Recommended Mitigation Measure #6: Avoidance

CDFW encourages Project implementation outside of the bird nesting season, which extends from early January through early September (typically February 15 to August

30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors).

Recommended Mitigation Measure #7: Nesting Bird Surveys

If Project-related work is scheduled during the nesting season (early January through early September), CDFW recommends that a qualified biologist with applicable species and habitat experience should conduct two surveys for active nests. No more than fourteen (14) days prior to the start of ground or vegetation disturbance a qualified biologist shall conduct a survey to establish a behavioral baseline of all identified nests. A final survey shall be conducted forty-eight (48) hours prior to Project activities to maximize the probability that nests that could potentially be impacted are detected. Appropriate minimum survey buffer surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys shall be conducted at the appropriate times of day and during appropriate nesting times.

Recommended Mitigation Measure #8: Buffer Zones

CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.

Recommended Mitigation Measure #9: Reporting

Prior to any tree removal and Project activities, the qualified biologist shall submit a report indicating the results of the survey and any designated buffer zones to CDFW.

COMMENT #4: Burrowing Owl (Section III., Pages 2-3)

Issue: Burrowing owl (*Athene cunicularia*) is designated by CDFW as a State Species of Special Concern (SSC) due to population decline and breeding range retraction. The species has also experienced a severe population decline in the County. Because the species is on the decline in the County, CDFW recommends utilizing the CDFW Staff Report on Burrowing Owl Mitigation for burrowing owl surveys and monitoring.

The IS/MND states that burrowing owl could potentially forage and roost in the Project area. Additionally, burrowing owl, occurrences have been documented within the vicinity of the Project area and historic observations occur elsewhere in the County (CDFW 2024, CNDDB 2024). The Project includes construction activities such as buildings, parking areas, and streets that may occur within ruderal grass and herbaceous vegetation that may be potential burrowing owl habitat. Direct mortality could occur

through crushing of adults or young within burrows, loss of nesting burrows, loss of nesting habitat, loss of foraging habitat resulting in reduced nesting success (loss or reduced health or vigor of eggs or young), nest abandonment, and reduced frequency or duration of care for young resulting in reduced health or vigor of young. All burrowing owl survey methods, buffer distances, and mitigation should follow the CDFW Staff Report on Burrowing Owl Mitigation, dated March 7, 2012, and available at https://wildlife.ca.gov/Conservation/ Survey-Protocols#377281284-birds.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Recommended Mitigation Measure #10: Preconstruction Surveys for Burrowing Owl

An initial take avoidance survey should be completed no less than 14 days prior to initiating ground disturbance activities using the recommended methods described in the CDFW Staff Report on Burrowing Owl Mitigation. Implementation of avoidance and minimization measures would be triggered by positive owl presence on the site where project activities will occur. The development of avoidance and minimization approaches would be informed by monitoring the burrowing owl. Burrowing owl may re-colonize a site after only a few days. Time lapses between project activities trigger subsequent take avoidance surveys including, but not limited to, a final survey conducted within 24 hours prior to ground disturbance (CDFW 2012).

Conduct surveys in all portions of the Project area by walking straight-line transects spaced approximately 23 feet (ft, 7 meters [m]) to approximately 66 ft (20 m) apart, adjusting for vegetation height and density (Rosenberg et al. 2007). At the start of each transect and, at least, every 328 ft (100 m), scan the entire visible project area for burrowing owl using binoculars. During walking surveys, record all potential burrows used by burrowing owl as determined by the presence of one or more burrowing owl, pellets, prey remains, whitewash, or decoration. Some burrowing owl may be detected by their calls, so observers should also listen for burrowing owl while conducting the survey.

Poor weather may affect the surveyor's ability to detect burrowing owl, therefore, avoid conducting surveys when wind speed is approximately greater than 12 m/hr (20 kilometers per hour [km/hr]), and there is precipitation or dense fog. Surveys have greater detection probability if conducted when ambient temperatures are greater than 68º F (20º C),

Daily timing of surveys varies according to the literature, latitude, and survey method. However, surveys between morning civil twilight and 10:00 AM and two hours before

sunset until evening civil twilight provide the highest detection probabilities (Conway et al. 2008).

Recommended Mitigation Measure #11: Implement Buffer Zones for Burrowing Owl

If burrowing owl are detected during the preconstruction survey, a buffer should be selected based on the time of year and level of disturbance for the burrowing owl (CDFW 2012). If the burrowing owl show signs of distress (e.g., defensive vocalizations and/or flying away from the nest), the buffer distance should be increased.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	656 ft (200 m)	1640 ft (500 m)	1640 ft (500 m)
Nesting sites	Aug 16-Oct 15	656 ft (200 m)	656 ft (200 m)	1640 ft (500 m)
Nesting sites	Oct 16-Mar 31	164 ft (50 m)	328 ft (100 m)	1640 ft (500 m)

Recommended Mitigation Measure #12: Monitor Owls during Construction

Burrowing owl may attempt to colonize or re-colonize an area that will be impacted; thus, the current scientific literature indicates a need for ongoing surveillance at the Project site during Project activities is recommended. The surveillance frequency/effort should be sufficient to detect burrowing owl if they return. Subsequent to their new occupancy or return to the site, take avoidance measures should assure with a high degree of certainty that take of owls will not occur (CDFW 2012).

COMMENT #5: San Francisco Dusky-footed Woodrat

Issue: The IS/MND states that the San Francisco dusky-footed woodrat (SSC, *Neotoma fuscipes annectens*) was detected in riparian habitats on the Project site, and at least 10 occupied nests were observed during reconnaissance surveys. San Francisco dusky-footed woodrat houses on the ground and in trees that could be destroyed by Project activities, leading to direct and indirect mortality of San Francisco dusky-footed woodrat. If a woodrat nest is found and cannot be avoided the biologist will prepare a relocation plan for CDFW approval.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Recommended Mitigation Measure #13: Surveys and Reporting

The IS/MND should include preconstruction survey measure(s) for San Francisco dusky-footed woodrat nests. Surveys will be conducted within the Project footprint and a 50-foot buffer of the Project. Surveys should be conducted by a qualified biologist at least two weeks prior to the start of any ground-disturbing activities. In the event a San Francisco dusky-footed woodrat nest is found in the proposed Project area, the developer/Project proponent shall submit results of surveys to CDFW. Surveys results shall include locations of any detected nests, sighted individuals or carcasses on a base map or maps. Maps shall include aerial imagery of the work site, predicted disturbed areas and protective buffer distances. The map or maps shall use an appropriate scale to depict an individual nest site.

Recommended Mitigation Measure #14: Nest Relocation

CDFW recommends a phased removal San Francisco dusky-footed woodrat nests where disturbance to nests is unavoidable. A qualified biologists should monitor and direct all activities associated with the removal of San Francisco dusky-footed woodrat nests. Only as necessary and to the minimal extant possible, Project site vegetation should be removed to provide access to the San Francisco dusky-footed woodrat nest(s). Vegetation should be removed to access San Francisco dusky-footed wood rat nests using hand tools. Small amounts of vegetation may be removed as needed by a qualified biologist. If significant amounts of vegetation must be removed to access a house such as dense poison oak or scrub, contractors with hand-tools should remove vegetation with a qualified biologist monitoring the activity. Gas-powered tools should be used as little as possible to reduce disturbance to occupied San Francisco dusky-footed woodrat structures.

Over a two-week period and prior to any construction activities, San Francisco dusky-footed woodrat nest(s) should slowly and progressively be dismantled to allow individuals of an occupied nest(s) to allow for gradual movement away from the exposed section of the nest. The dismantling of the nest should occur during daylight hours and mostly in the early morning (between 0700 and 1000 hours) to reduce the likelihood of a predation event and minimize sunlight exposure. To enhance adjacent habitat, a portion of the woody vegetation that was removed from the Project site should be placed in adjacent habitat to provide cover for dispersing San Francisco dusky-footed wood rats. San Francisco dusky-footed woodrat nest material and other woody vegetation should be relocated at least 200 ft from the Project site to ensure that the area is not re-colonized and potentially impacted by the construction activities. Where feasible, nest material, food caches and woody debris should be salvaged from the dismantled woodrat nest(s) and used to create cover and provide supplemental shelter for dispersing individual(s). Noting that food from the dismantled nest should be placed under the created cover.

If a San Francisco dusky-footed woodrat young is located, the removal of vegetation and/or dismantling of nest should immediately be suspended for a period of two to four weeks in order for the young's eyesight to develop and become mobile. Noting that the removed material should be placed back on to the nest to re-cover the exposed litter and young. After two-to-four-week period, based on the development of the young, and in agreement with CDFW, the above phased-removal procedure of the San Francisco dusky-footed wood rat nest may resume. Within 24 hours of vegetation removal and completion of the nest dismantling, an additional visual survey of the Project area should be conducted to ensure that no new San Francisco dusky-footed woodrat nests have been constructed.

COMMENT #6: Bats

Issue: The Project includes the removal of 42 trees, including 25 protected trees. Pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), and western mastiff bat (*Eumops perotis californicus*) occurrences have been documented within the vicinity of the Project area and historic observations occur elsewhere in the County (CDFW 2024, BIOS 2024). To determine the extent to which impacts may occur to bats and determine where habitat loss may occur from the removal of trees, the IS/MND should propose measures to conduct a bat habitat assessment of suitable bat roosting habitat.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Recommended Mitigation Measure #15: Bat Habitat Monitoring

CDFW recommends that a qualified biologist with applicable species and habitat experience should conduct a survey from March 1 to April 1 or August 31 to October 15 prior to construction activities. The habitat assessment shall include a visual inspection of features within the work area for potential roosting features including trees, crevices, parking garages, siding or roofs of buildings, and hollow areas (bats need not be present). The surveys should occur at least two seasons in advance of Project initiation. If the focused survey reveals the presence of roosting bats, then the appropriate exclusionary or avoidance measures will be implemented prior to construction during the period between March 1 to April 15 or August 31 to October 15.

Recommended Mitigation Measure #16: Avoidance

If active bat roosts are observed during environmental assessments or during construction, at any time, all Project activities should stop until a qualified biologist develops a bat avoidance plan to be implemented at the Project site. The bat avoidance plan should utilize seasonal avoidance, phased construction as well as temporary and permanent bat housing structures developed in coordination with CDFW.

Recommended Mitigation Measure #17: Reporting

Prior to Project activities, the qualified biologist shall submit a report to CDFW that discusses the results of the suitable habitat assessment and if any bats or signs of bats (feces or staining at entry/exit points) are discovered.

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

COMMENT #7: Wildlife Corridors and Habitat Connectivity

Issue: The Project is located at the eastern edge of core and patch habitat for movement of species across the Santa Cruz Mountain Range. Implementation of the proposed Project could prevent, decline, or otherwise alter use of existing wildlife movement corridors for American badger (*Taxidea taxus*), burrowing owl, California quail (*Callipepla californica)*, loggerhead shrike (*Lanius ludovicianus*), and white-tailed kite. The IS/MND lists mitigation measures to protect habitat and species within the riparian area. However, the IS/MND does not include protections for species occurrences within the California annual grassland habitat. The California annual grassland habitat within the Project area overlaps with modeled core and patch habitat for the species listed above (BIOS 2024).

The proposed Project includes components such as construction of buildings, parking areas, streets in the California annual grassland habitat and the potential removal of riparian vegetation in the mixed riparian woodland and forest. The Project could result in direct mortality, reduced reproductive success, reduced frequency of care for young resulting in reduced health or vigor of young, forcing wildlife into movement paths and areas that could increase their vulnerability to vehicle strikes and predation, and reduction in genetic exchange affecting intra-species diversity. Isolation of subpopulations limits the genetic exchange of populations and increases the risk of local extirpation. Maintaining connectivity though these linkages is critical to ensure current and future wildlife populations' abilities to move and adapt to a changing climate and habitat conditions.

Recommended Mitigation Measure #18: Analysis and Monitoring of Habitat Connectivity

CDFW recommends that on-site features that contribute to habitat connectivity should be evaluated and maintained. Aspects of the Project that could create physical barriers to wildlife movement, including direct or indirect Project-related activities, should be identified, and addressed in the IS/MND. CDFW recommends the Project avoid developing and encroaching onto wildlife corridors, essential connectivity blocks, critical wildlife passage areas, or potential linkage areas.

Recommended Mitigation Measure #19: Monitoring and Compensatory Mitigation

Where not feasible, CDFW recommends mitigation for wildlife movement impacts, including, but not limited to a 1) wildlife movement study of existing use of wildlife corridors within the Project area before and after construction, 2) on-site or off-site compensatory mitigation, such as the development or enhancement of a local wildlife movement corridor.

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 Setbacks (Section III., Pages 3-4)

Issue: The Project has the potential to encroach into riparian vegetation (i.e., "riparian zone") from development. Encroachment into the riparian zone or removal of riparian vegetation, including grass and shrubs, can cause loss of habitat, destabilization of stream morphology, alteration of hydrology, degraded water quality, and reductions in many types of fish and wildlife. (Davis et al. 1996).

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Recommended Mitigation Measure #20: Compensatory Mitigation and Reporting

CDFW recommends relocating the proposed sidewalk within the riparian area to outside of the riparian zone to reduce loss of riparian habitat. Where not feasible, CDFW recommends revising Mitigation Measure BIO-2 to include the following:

Temporarily impacted areas within the riparian zone or other sensitive natural community shall be restored and planted with native trees, shrubs and grasses. Permanently impacted areas within the 35-foot riparian setback zone or other sensitive natural community, such as from sidewalks, should be restored at a 3:1 mitigation to impact ratio for acreage and linear feet impacted.

Appropriate compensatory mitigation should be through preservation and protection in perpetuity of equal or higher quality habitat, or through creation, enhancement, and/or restoration. Replanted or restored mitigation sites should be monitored for a 10-year period. A mitigation and monitoring plan should be developed and include success criteria to be met at the end of the monitoring period. If success criteria are not met, the mitigation plan should include adaptive management actions along with additional years of monitoring as well as additional mitigation for the temporal loss.

All restoration areas that will serve as mitigation should include preparation of 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 for long-term management.

Restoration should occur on-site to the extent feasible. If off-site restoration is necessary, it should be as close to the Project site as possible and within the same watershed, unless otherwise approved in writing by CDFW. Restoration should occur in the same year as the impacts. Trees within the riparian zone or sensitive natural community shall be replaced at the following mitigation to impact ratios, unless otherwise approved in writing by CDFW:

Oak (Quercus sp.) trees:

• 4:1 replacement for trees up to 7 inches diameter at breast height (DBH);

• 5:1 replacement for trees greater than 7 inches and up to 15 inches DBH;

• 10:1 replacement for trees greater than 15 inches DBH, which are considered old-growth oaks;

Non-oak trees:

• 1:1 replacement of non-native trees with native trees.

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 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. (See 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 IS/MND to assist City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Melony Wood, Environmental Scientist at (707) 428-2002 or Melony.Wood@Wildlife.ca.gov; or Jason Faridi, Senior Environmental Scientist (Supervisory), at Jason.Faridi@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Region Manager
Bay Delta Region

Attachment 1: Special-Status Species and Commercially/Recreationally Important Species

ec: Office of Planning and Research, State Clearinghouse, (SCH No. 2024080035)
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

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ATTACHMENT 1: Special Status Species

Species	Status
Birds	
burrowing owl (*Athene cunicularia*)	Species of Special Concern (SSC)
California least tern (*Sternula antillarum browni*)	Federal Endangered (FE), State Endangered (SE), State Fully Protected (FP)
Cooper's hawk (*Accipiter cooperii*)	State Watch List (SWL)
golden eagle (*Aquila chrysaetos*)	FP
least Bell's vireo (*Vireo bellii pusillus*)	FE, SE
loggerhead shrike (*Lanius ludovicianus*)	SSC
northern harrier (*Circus hudsonius*)	SSC
tricolored blackbird (*Agelaius tricolor*)	State Threatened (ST), SSC
white-tailed kite (*Elanus leucurus*)	FP
Fish and Invertebrates	
Crotch's bumble bee *(Bombus crotchii*)	State candidate (SC)
Monterey hitch (*Lavinia exilicauda harengus*)	SSC
steelhead - south-central California coast DPS (*Oncorhynchus mykiss irideus* pop. 9)	FT (Federally Threatened), SSC
Mammals	
American badger (*Taxidea taxus*)	SSC
pallid bat (*Antrozous pallidus*)	SSC
San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*)	SSC
Townsend's big-eared bat (*Corynorhinus townsendii*)	SSC
western mastiff bat (*Eumops perotis californicus*)	SSC

Species	Status
Plants	
Hoover's button-celery (*Eryngium aristulatum var. hooveri*)	S1, 1B.1
saline clover (*Trifolium hydrophilum*)	S2, 1B.2
Santa Clara Valley dudleya (*Dudleya abramsii ssp. setchellii*)	S2, 1B.1
smooth lessingia (*Lessingia micradenia var. glabrata*)	S2, 1B.2
Reptiles and Amphibians	
California red-legged frog (*Rana draytonii*)	FT, SSC
California tiger salamander - central California DPS (*Ambystoma californiense* pop. 1)	FT, ST, SWL
western pond turtle (*Actinemys marmorata*)	Proposed FT, SSC