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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

October 8, 2025

Krystine Ball, Public Works Program Manager
City of Rio Vista
One Main Street
Rio Vista, CA 94571
KBall@ci.rio.vista.ca.us

Subject: City of Rio Vista 2045 General Plan Update, Draft Program Environmental Impact Report, SCH No. 2024101291, City of Rio Vista, Solano County

Dear Krystine Ball:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Program Environmental Impact Report (EIR) from the City of Rio Vista (City) for the City of Rio Vista 2045 General Plan Update (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] CDFW previously submitted comments in response to the Notice of Preparation of the draft program EIR in a letter dated December 11, 2024.

The draft program EIR concludes that impacts to biological resources would be less-than-significant and mitigation measures are unnecessary based on the Project's Open Space and Resource Conservation Element's policies and compliance with several natural resource protection laws. However, 1) the policies are non-specific, such as "Protect open space areas of natural resource and scenic value, including wetlands, riparian corridors, floodplains, woodlands, and hillsides", and therefore provide no assurance that impacts to fish and wildlife resources would be reduced to less-than-significant, 2) absent enforceable mitigation measures, there is no assurance that the Project including future development would comply with natural resource protection laws, and 3) natural resource protection laws do not cover several special-status species and sensitive habitats, such as California Rare Plant Rank species. Therefore, the Project would likely result in significant impacts to biological resources unless enforceable mitigation measures are included in the draft program EIR, pursuant to CDFW's recommendations in our Notice of Preparation (NOP) response letter, which are restated below.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife

[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.

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resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Rio Vista

Objective: The Project is a comprehensive update of the 2001 Rio Vista General Plan to conform with new State laws related to community health, environmental justice, climate adaptation, resiliency, and mobility, and to bring long-term growth and fiscal projections into alignment with current economic conditions and State mandates. The Project establishes the community's long-term vision for the future, including where people in Rio Vista will live, work, shop, and recreate. It serves as guidance for all zoning and land use decisions within the City. The Project will shape future housing, support job growth, foster healthy and resilient neighborhoods, protect and manage natural resources, ensure community safety, and promote social and economic equity.

The Project contains a land use diagram, which guides the seven elements required by State law: Land Use, Open Space, Transportation, Housing, Conservation, Safety, and Noise. These elements can be combined or presented in any order that best fits the community. The Project will have all the elements required by State law, in addition to optional elements that the City has elected to include.

The Project would amend the General Plan land use diagram, shown on Figure 3-1, *Existing Land Use Diagram* (draft program EIR page 3-7). The land use diagram changes would occur throughout the City. The Project would redesignate a total of 773 acres. Figure 3-2, *Proposed Land Use in Rio Vista* (draft program EIR page 3-8), shows the proposed land use designations in the City. The Project also includes changes to the titles of some of the land use designations, Table 3-1, *Proposed General Plan 2045 and Land Use Designation Acres* and Table 3-2, *Existing General Plan 2020 and Land Use Designation Acres* (draft program EIR page 3-5 and 3-6) which show the summary of proposed and existing land use designations and acreages, respectively.

Location: City of Rio Vista, County of Solano, with an approximate centroid of Latitude 38.179104° and Longitude -121.707006°.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

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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. **The Project has the potential to impact Swainson's hawk (*Buteo swainsoni*), bank swallow (*Riparia riparia*), giant garter snake (*Thamnophis gigas*), and longfin smelt** (***Spirinchus thaleichthys*), which are CESA listed as threatened species, and other CESA listed as threatened or endangered fish species; Mason's lilaeopsis (*Lilaeopsis masonii*), an NPPA listed as a rare species; and burrowing owl (*Athene cunicularia*) and white sturgeon (*Acipenser transmontanus*), both candidate species for CESA listing**, **as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a 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 an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; 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 CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., is required for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will 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, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. **There are multiple streams throughout the Project area that could be impacted. If stream impacts would not be avoided, an LSA Notification may be required, as further described below**. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction 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

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protecting birds, their eggs, and nests include sections 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).

California Fully Protected Species

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; 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. **The Project has the potential to impact golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*), which are both California fully protected species.**

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below and in **Attachment 1** 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.

I. Program Environmental Impact Report

The draft program EIR is a program EIR. 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

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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 program 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 program 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 Program 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 program EIR.

II. Mitigation Measures and Related Impact Shortcomings

> **Mandatory Findings of Significance: Does the Project have the 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 1: Swainson's Hawk

> **Issue, specific impacts, why they may occur and be potentially significant:** The draft program EIR does not include mitigation measures to protect Swainson's hawk. There are California Natural Diversity Database (CNDDB) documented Swainson's hawk nests within the Project area and within 0.5 miles of it, the distance at which the species may be disturbed**.** The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels

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within 0.5 miles of Project activities. Direct or indirect disturbances from Project activities may result in Swainson's hawk nest abandonment, loss of nests, and loss of eggs or reduced health and vigor and loss of young.

The Project appears to overlap with native or non-native grassland habitat, which is likely used by Swainson's hawk for foraging. The draft program EIR should evaluate potential Swainson's hawk foraging habitat loss. The Project site is within the Draft Solano Habitat Conservation Plan (HCP) Valley Floor Grassland Conservation Area, which should be mitigated at a minimum 1:1 ratio according to the Draft Solano HCP Mitigation Measure SH 2 for Swainson's hawk (see Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/), unless otherwise required by an ITP for SWHA. In 2016, CDFW released a Status Review for Swainson's hawk in California and recommended the species retain its status as threatened under CESA (CDFW 2016). The review cites the primary threat to Swainson's hawk continues to be habitat loss, especially the loss of suitable foraging habitat. The study cites concerns regarding impacts to Swainson's hawk from urban development, reduction in grasslands, and orchard and vineyard cultivation, all of which are prominent impacts in Solano County, where the Project is proposed.

Swainson's hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active Swainson's hawk nest is disturbed by the Project or if foraging habitat is removed, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measures: To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA and Fish and Game Code section 3503 et seq., CDFW recommends including the below mitigation measures in the draft program EIR.

Mitigation Measure BIO-1 (Swainson's Hawk Pre-Construction Survey): If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are

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more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.

Mitigation Measure BIO-2 (Swainson's Hawk Foraging Habitat): A qualified biologist shall evaluate if the Project would result in loss of Swainson's hawk foraging habitat, and if so shall quantify the loss in acres. Consistent with the Draft Solano HCP, prior to Project construction, if the Project would result in loss of Swainson's hawk foraging habitat, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, unless otherwise require by an ITP for Swainson's hawk, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

COMMENT 2: Mason's Lilaeopsis and other Special-Status Plants

Issue, specific impacts and why they may occur and be significant: The draft program EIR does not include mitigation measures to protect Mason's lilaeopsis and other special-status plants. There are CNDDB documented occurrences of Mason's lilaeopsis within the Project area. The Project has potential to impact Mason's lilaeopsis and other special-status plants. Mason's lilaeopsis is an NPPA listed as rare species and therefore is considered a rare species pursuant to Section 15380 of the CEQA Guidelines. Mason's lilaeopsis is threatened by erosion, bank and channel-stabilization, flood-control projects, widening of Delta channels for water transport, dredging and dumping of spoils, boat wake overwash, recreation (e.g., fishing trails), and in some areas, by water hyacinth (see *Species Accounts of Rare, Threatened, and Endangered Plants from 2004 Status Report* at https://wildlife.ca.gov/Conservation/Plants/Info). Impacts to Mason's lilaeopsis could

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substantially reduce the species' population or restrict its range, which would be considered a Mandatory Finding of Significance pursuant to Section 15065, subdivision (a) of the CEQA Guidelines. Therefore, if Mason's lilaeopsis is present in the Project area and would be directly or indirectly impacted by the Project, then Project impacts to Mason's lilaeopsis would be potentially significant.

Impacts to other special-status plant species may result in local population declines or extirpation of a species. Insufficient detection or mitigation may result in prolonged temporal or permanent impacts to a special-status plant species' range, distribution, and population in the State. Therefore, if other special-status plants occur on or adjacent to the Project site where they may be directly or indirectly impacted, impacts to other special-status plants would be potentially significant.

Recommended Mitigation Measure: To reduce impacts to Mason's lilaeopsis and other special-status plants to less-than-significant and comply with NPPA, CDFW recommends including the below mitigation measure in the draft program EIR.

Mitigation Measure BIO-3 (Special-Status Plant Surveys and Protection): Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to *CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (see: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline). The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Project has consulted with CDFW and obtained CDFW's written approval, which may include topsoil salvage, transplanting, or habitat compensation. The Project shall obtain and comply with a CESA ITP from CDFW for any impacts to Mason's lilaeopsis or any other CESA or NPPA listed plants and provide habitat compensation to mitigate impacts to Mason's lilaeopsis or any other CESA or NPPA listed plant species at a minimum three to one mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing

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a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and/or long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including but not limited to the management plan(s) shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plan(s) funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW.

COMMENT 3: Burrowing Owl

Issue, specific impacts, why they may occur and be potentially significant: The draft program EIR does not include mitigation measures to protect burrowing owl. There are CNDDB documented burrowing owl occurrences within the Project area and within 500 meters (1,640 feet) of it, the distance at which the species may be disturbed. The Project may impact nesting or wintering burrowing owls utilizing burrows or burrow surrogates on or within up to 500 meters of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a candidate species for CESA listed as threatened because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owls for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owls have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022). Information indicates a decline in burrowing owl range over time, burrowing owl has experienced population declines in regions of California and threats to burrowing owl, coupled with long-term population declines, suggest a high degree and immediacy of threat to burrowing owl in California (CDFW 2024). Based on the foregoing, if burrowing owls are wintering or nesting on or within 500 meters of the Project site, Project impacts to burrowing owl would be potentially significant.

Recommended Mitigation Measures: To reduce potential impacts to burrowing owl to less-than-significant and comply with CESA and Fish and Game Code section

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3503 et seq., CDFW recommends including the below mitigation measures in the draft program EIR.

Mitigation Measure BIO-4 (Burrowing Owl Surveys): A qualified biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds), unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology. The habitat assessment shall focus on searching the CNDDB and potentially other sources for any burrowing owl records on or within at least one mile of the Project area, vegetation type and height, suitable burrows (with an opening greater than 11 centimeters [cm] in diameter and a depth greater than 150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. An additional survey shall be conducted within 24 hours prior to ground disturbance. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.

If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a take avoidance survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report.

If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A qualified biologist shall monitor any detected owl to ensure it is not disturbed.

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If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted and shall obtain an ITP if deemed necessary by CDFW.

Mitigation Measure BIO-5 (Caps, Pipes, and Hoses): To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

COMMENT 4: Bank Swallow

Issue, specific impacts, why they may occur and be potentially significant: The draft program EIR does not include mitigation measures to protect bank swallow. There is CNDDB documented occurrence of bank swallow within three miles of the Project area. The Project has the potential to impact nesting or adult bank swallows through direct removal of habitat, and auditory or visual disturbances above ambient levels. Disturbances from Project activities may result in nest abandonment and loss of eggs or reduced health and vigor and loss of young. Nesting birds are also protected by Fish and Game Code section 3500 et seq. and the federal MBTA

Recommended Mitigation Measure: To reduce potential impacts to bank swallow to less-than-significant and comply with CESA and Fish and Game Code section 3503 et seq., CDFW recommends including the below mitigation measure in the draft program EIR.

Mitigation Measure MM-BIO-6 (Bank Swallow Avoidance): For Projects impacting streams, at least 30 days before commencement of Project activities, a qualified biologist shall provide an assessment of if stream banks with greater than 70 percent

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slope are present within disturbance distance for the species, provide justification for the proposed disturbance distance, and obtain approval in writing from CDFW. If stream banks with greater than 70 percent slope are identified within the disturbance distance, they shall be surveyed specifically for bank swallow burrows and nests one week before the start of Project activities and again immediately prior to the start of Project activities. If active bank swallow burrows or nests are found, consultation with CDFW shall be required before commencement of Project activities. If there is a lapse in Project activities of more than seven days, surveys shall be repeated. If impacts to bank swallows cannot be avoided, an ITP may be required by CDFW.

COMMENT 5: CESA Listed and Candidate and other Special-Status Fish

Issue, specific impacts, why they may occur and be potentially significant: The draft program EIR does not include mitigation measures to protect CESA listed, candidate, and other special-status fish species. The Project area covers or is adjacent to riverine habitat that support special-status fishes including Delta smelt (*Hypomesus transpacificus*), CESA listed as endangered and federally listed as threatened; longfin smelt, CESA listed as threatened and federally listed as endangered; and white sturgeon, CESA candidate species, and other special-status fish. Note that Project activities can remotely impact special-status fishes (e.g. pollutants introduced upstream from fish habitat, artificial lighting at night). The above fish species are CESA and federal Endangered Species Act (ESA) listed or candidate species and therefore are considered to be threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if these fish would be impacted by the Project, the Project could result in a substantial reduction in the species' population, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1). CDFW recommends that the draft program EIR to include an assessment of special-status fishes and aquatic life including but not limited to the above fish species.

Recommended Mitigation Measure: To reduce impacts to CESA listed, candidate, and other special-status fish to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measure in the draft program EIR.

Mitigation Measure MM-BIO-7 (Special Status Fish Protection): In water work shall be avoided where special-status fish such as Delta smelt, longfin smelt, and white sturgeon may occur, as determined by a qualified biologist based on a review of CNDDB and consultation with CDFW. If take of the above fish species or any CESA listed or candidate aquatic listed species cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to commencing Project activities and shall comply with the ITP. The Project shall also consult with the USFWS or National Marine Fisheries Service for any impacts to federally listed fish.

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COMMENT 6: White-Tailed Kite, Golden Eagle, and other Nesting Birds

Issue, specific impacts, why they may occur and be potentially significant: The draft program EIR does not include mitigation measures to protect white-tailed kite, golden eagle, and other nesting birds. The Project may impact nesting birds such as white-tailed kite and golden eagle, which are California fully protected species. Nesting birds are also protected by Fish and Game Code section 3500 et seq. and the federal MBTA. Golden Eagle is also protected by the federal Bald and Golden Eagle Protection Act.

Recommended Mitigation Measure: To reduce potential impacts to white-tailed kite and other nesting birds to less-than-significant, CDFW recommends including the below mitigation measure in the draft program EIR.

Mitigation Measure MM-BIO-8 (Nesting Bird Surveys): If construction, grading, vegetation removal, or other Project-related activities are scheduled during the avian nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within seven days prior to the beginning of Project-related activities. The survey shall consist of including the entire project site and a minimum 500-foot buffer or the distance necessary as determined by a qualified biologist. If a lapse in Project-related work of seven days or longer occurs, another survey shall be conducted before Project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall immediately notify the CDFW and establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by Project work. Nest monitoring shall continue during Project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

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COMMENT 7: Giant Garter Snake

Issue, specific impacts, why they may occur and be potentially significant: The draft program EIR does not include mitigation measures to protect giant garter snake. The Project is in the range of giant garter snake and contains giant garter snake habitat. The giant garter snake is a highly aquatic snake endemic to the Central Valley of California. The species became threatened several decades ago primarily due to habitat loss from agriculture (Hansen and Brode 1980). The species relies on wetland habitats that have been destroyed, fragmented, or degraded by urbanization and agricultural development such as natural wetlands like marshes, sloughs, ponds, small lakes, and small streams. Giant garter snake persist in some agricultural areas, particularly in rice-growing regions where summer water and prey are abundant on the landscape during the species' active season. The snake is in artificial waterways and agricultural wetlands like irrigation and drainage canals, rice fields, and adjacent uplands. Giant garter snake typically estivate and overwinter in cracks and burrows. Additionally, giant garter snake are threatened by invasive predatory fish and bullfrogs as well as pesticides, herbicides, fertilizers, and heavy metals, which not only impact giant garter snake directly, but also cause declines in their native prey (e.g., Sierran treefrogs and Sacramento blackfish). Water diversions, dams, canal and levee maintenance, and rodent abatement also threaten the species.

Giant garter snake has specific seasonal habitat requirements. During summer months, giant garter snake requires aquatic habitat for foraging and adjacent upland areas with emergent vegetation for basking (USFWS 2017). During periods of inactivity, giant garter snake requires burrows in upland habitat as refugia for summer shelter and cracks and burrows in uplands for winter estivation (Hansen et al. 2015).

Currently, giant garter snake is isolated to only nine disjunct populations. At the time of the species listing in 1993 under the federal ESA, USFWS (USFWS 2017) recognized 13 populations. Since then, two populations have been determined extirpated (USFWS 2017). In addition, giant garter snake are also susceptible to roads, vehicular traffic, and non-native species impacts (USFWS 2017). Road use can result in snake mortality as they congregate on roads due to the increased temperature that creates a heat island on and near the road for thermoregulation (Trombulak and Frissell 2000). Reptile diversity has been shown to decline relative to the density of roads (Findlay and Houlahan 1997).

The Project has the potential to impact giant garter snake through habitat loss by urbanization and prey reduction, which would potentially reduce the number of snakes and restrict the amount of habitat left to utilize. Additionally, trash and lighting may attract or make giant garter snake more visible to native predators (e.g.,

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raccoons). Plastic erosion control or bird netting can entangle and kills snakes as well (Kapfer and Paloski 2011).

Giant garter snake is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if giant garter snake aquatic or upland habitat is disturbed by the Project or if habitat is removed, the Project may result in a substantial reduction in the number and range of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce potential impacts to giant garter snake to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measures in the draft program EIR.

Mitigation Measure MM-BIO-9 (Giant Garter Snake Habitat Assessment): A qualified biologist shall conduct a habitat assessment of Project areas in advance of Project activities to determine if the Project area or its vicinity contains suitable habitat for giant garter snake and shall provide the habitat assessment to CDFW and obtain CDFW's written approval of it. If suitable habitat is present, no more than 30 days prior to ground-disturbing activities, a qualified biologist shall survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which giant garter snake could be present. All potentially suitable burrows and crevices shall be flagged and avoided by a minimum 50-foot no-disturbance buffer. If a 50-foot radius buffer isn't feasible, the Project shall consult with CDFW to discuss how to implement the Project and avoid take of the species or whether and ITP is necessary.

Mitigation Measure MM-BIO-10 (Giant Garter Snake Habitat Buffer): If potential aquatic habitat for giant garter snake has been identified in or within 200 feet of the Project area by the qualified biologist, a qualified biologist shall be present on-site to monitor all Project activities.

Mitigation Measure MM-BIO-11 (Giant Garter Snake Observation): If a snake species of any kind is observed within the Project site, then all Project activities shall halt, and work shall not continue until the snake species is identified by a qualified biologist. If giant garter snake is discovered at any time within the Project site and staging areas, then all Project activities shall halt until CDFW has been notified and the Project proponent can demonstrate compliance with CESA to CDFW's satisfaction. CDFW reserves the right to provide additional giant garter snake protection measures in the event of a giant garter snake detection.

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Mitigation Measure MM-BIO-12 (Giant Garter Snake Take Prohibition): If "take" of giant garter snake or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, the Project shall obtain a CESA permit pursuant to Fish and Game Code Section 2080 et seq. The take permit will likely include mitigation measures recommended in this letter and may include additional measures.

Mitigation Measure MM-BIO-13 (Giant Garter Snake Environmentally Sensitive Area Establishment): The Project shall establish Environmentally Sensitive Areas in the Project area to minimize the disturbance of giant garter snake habitat from construction-related activities. The Project shall erect environmentally sensitive area fencing as directed by the Designated Biologist(s), 200 feet from the edge of potential aquatic giant garter snake habitat. The Designated Biologist(s) shall identify and flag all potential small mammal burrows within the Project Area as environmentally sensitive areas. In addition, all potential giant garter snake habitat that can be reasonably avoided during construction activities shall be identified as environmentally sensitive areas and shall be marked by the Designated Biologist(s). Environmentally sensitive areas will be demarked by tying high visibility poly wire to stakes placed every six feet along the environmentally sensitive area boundary. The high visibility poly wire will be raised at least four feet above grade. The high visibility wire and stakes shall be marked with high visibility flagging or markers. All construction personnel shall be educated about the purpose of the environmentally sensitive areas and avoid environmentally sensitive areas during all phases of construction. The Project shall avoid environmentally sensitive areas when siting all staging areas, spoils disposal areas, borrow pits, and construction equipment access routes. The Project shall not use plastic mono-filament netting on the Project site for environmentally sensitive area fencing, erosion control, or any other purpose to avoid entanglement of giant garter snake. The qualified biologist shall inspect the fencing before the start of each workday and the Project shall maintain the fencing until the completion of the Project. Project shall remove all fencing material upon completion of the Project.

Mitigation Measure MM-BIO-14 (Giant Garter Snake Exclusion Fencing): To exclude giant garter snake from entering the Project area, the Project shall erect silt fencing between all aquatic habitat and upland habitat, one day subsequent to upland habitat disturbance. The Project shall submit the fencing design to CDFW for approval no less than 30 days prior to the proposed start of Project activities. The Project shall maintain fencing throughout all construction activities. A qualified biologist shall inspect the area prior to installation. The qualified biologist shall inspect the barrier daily and during and after storm events (rainfall exceeding 0.5 inches during a 24-hour period). The Project shall maintain and repair the barrier immediately to ensure that it is functional and without defects, that fencing material is taut, and that the bottom edge of the fencing material remains buried. The Project

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shall maintain vegetation within one meter on the side of the fence away from the Project Area at a maximum height of four inches.

Fencing shall consist of taught silt fencing supported by wooden stakes on the Project side only. Fencing shall be buried a minimum of six inches below ground and soil shall be compacted against both sides of the fence for its entire length to prevent animals from passing under the fence. Fencing shall extend 12 to 18 inches above the ground. At any access opening in the fence, the fence shall turn 180 degrees away from the access point for a length of approximately 10 feet and at a minimum width of one foot from the original fence.

The Project shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing. When the Project cannot avoid burrows, burrows shall be hand excavated by the qualified biologist prior to trenching activities. Giant garter snake found during excavation shall be relocated. Following excavation, the qualified biologist shall block holes or burrows which appear to extend under the fencing to minimize giant garter snake movement into the Project area.

The Project shall remove fencing and all fencing materials upon completion of construction.

Mitigation Measure MM-BIO-15 (Giant Garter Snake Seasonal Work Restriction):

The Project shall conduct all construction activities within giant garter snake upland and aquatic habitat, including activity within 200 feet of aquatic habitat, between May 1 and October 1. This is the active period for giant garter snake and direct impacts are lessened because snakes are actively moving and avoiding danger. More danger is posed to snakes during their inactive period, because they are occupying underground burrows or crevices and are more susceptible to direct impacts, especially during excavation.

Mitigation Measure MM-BIO-16 (Giant Garter Snake Dewatered Aquatic Habitat):

The Project shall dewater (or, in the case of rice fields, not irrigate the portion of field within the Project area) suitable giant garter snake aquatic habitat (e.g., wetlands, drainages, rice fields) prior to any construction within suitable giant garter snake aquatic habitat. The Project shall ensure the habitat remains dry for at least 15 consecutive days after April 15 and prior to excavating or filling of aquatic habitat. The Project shall limit dewatering to April 15 to October 1. The Project shall limit dewatering to the immediate Project area and shall ensure that alternative aquatic habitat is available.

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Mitigation Measure MM-BIO-17 (Giant Garter Snake Speed Limit and Existing Routes): Project-related personnel shall access the Project site during construction and development activities using existing routes and shall not cross giant garter snake habitat outside of the Project site. Project-related vehicle traffic shall be restricted to established roads, staging, and parking areas. Vehicle speeds shall not exceed 20 miles per hour, except on county roads and state and federal highways, in order to avoid giant garter snake on or traversing the roads. If a giant garter snake is found on or traversing a roadway, workers shall immediately notify the qualified biologist. Workers shall allow the animal to safely move off the road.

Mitigation Measure MM-BIO-18 (Giant Garter Snake Monofilament Restriction): The Project shall not use plastic monofilament netting (erosion control matting) or similar material. The Project shall use native vegetation or other treatments including native slash, jute netting or straw wattles to protect and stabilize soils. Fiber rolls and other erosion control treatments shall be made with wildlife-friendly, biodegradable products that will not entrap or harm wildlife. Erosion control products shall not contain synthetic (e.g., plastic or nylon) netting or materials. The Project shall communicate this limitation to the contractor through use of Special Provisions included in the bid solicitation package. The Project shall bury the edge of the material in the ground to prevent giant garter snake and other reptiles and amphibians from crawling underneath the material.

Mitigation Measure MM-BIO-19 (Giant Garter Snake Habitat Restoration): The Project shall restore the temporarily impacted giant garter snake habitat on-site to pre-construction conditions. The Project shall re-contour, if appropriate, and re-vegetate these areas with appropriate locally available native plant species. The restoration effort shall comply with the USFWS Guidelines for the Restoration and/or Replacement of GGS Habitat (USFWS 2007) and shall be monitored for one year.

Mitigation Measure MM-BIO-20 (Giant Garter Snake Habitat Mitigation): If impacts to giant garter snake cannot be fully avoided, then the Project shall provide compensatory habitat mitigation to offset impacts to the species at a 3:1 mitigation ratio, unless otherwise approved in writing by CDFW. Habitat mitigation shall include purchasing giant garter snake credits from a CDFW-approved conservation bank that CDFW determines in writing is in current good standing or placing a conservation easement over high quality giant garter snake habitat, including an interim and long-term management plan, and providing an endowment to manage the easement in perpetuity.

III. 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?

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COMMENT 8: Sensitive Natural Communities, Wetlands, Riparian Habitat, and Lake and Streambed Alteration Notification

Issue, specific impacts, why they may occur and be potentially significant: The draft program EIR does not include mitigation measures to protect sensitive natural communities, wetlands, riparian habitat, and LSA Notification. The Project could result in potentially significant impacts to sensitive natural communities, wetlands, or riparian habitat. CDFW recommends that the draft program EIR include an assessment of potential impacts to sensitive natural communities, wetlands, or stream and riparian habitat.

Recommended Mitigation Measures: If impacts to sensitive natural communities, wetlands, or riparian habitat may occur, to reduce impacts to less-than-significant and comply with Fish and Game Code section 1600 et seq., CDFW recommends including the below mitigation measure in the draft program EIR.

Mitigation Measure MM-BIO-21 (Habitat Restoration and Compensation, and Impacts to Streams and Riparian Areas): The Project shall implement restoration onsite or offsite to mitigate temporary or permanent impacts to riparian habitat, sensitive natural communities, or wetlands at a minimum 1:1 (restore onsite temporary impacts) or 3:1 (permanent impacts) mitigation to impact ratio for acres and linear feet of impacts, or provide habitat compensation including permanent protection of habitat at the same ratio through a conservation easement and preparing and funding implementation of a long-term management plan, unless otherwise approved in writing by CDFW.

Prior to the commencement of Project activities, the Project shall conduct a thorough assessment for potential impacts to streams and riparian habitat including but not limited to impacts resulting trail clearing, earth moving, and vegetation removal. If impacts to the bed, bank, channel, or riparian area of the streams cannot be avoided, the Project shall notify CDFW for potential Project impacts to the streams pursuant to Fish and Game Code section 1600 et seq. and shall comply with the Streambed Alteration Agreement (SAA), if issued. More information for the Notification process is available at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA.The Project shall not commence activities with potential to impact the stream until the SAA process has been completed. Impacts to the streams and riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio in area and linear feet for permanent impacts, all temporary impact areas shall be restored, and trees shall be replaced at an appropriate ratio based on size and species, unless otherwise approved in writing by CDFW. An SAA, if issued, may include additional avoidance and minimize measures to protect fish and wildlife resources. Projects shall also obtain permits from the Regional Water Quality Control Board (RWQCB)

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and U.S. Army Corps of Engineers (USACE) pursuant to the Clean Water Act if applicable.

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 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 draft program EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at Jordan.Beaton@wildlife.ca.gov or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

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ec: Office of Land Use and Climate Innovation (SCH No. 2024101291)
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
BIO-1	*Swainson's Hawk Pre-Construction Survey*: If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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BIO-2	*Swainson's Hawk Foraging Habitat:* A qualified biologist shall evaluate if the Project would result in loss of Swainson's hawk foraging habitat, and if so shall quantify the loss in acres. Consistent with the Draft Solano HCP, prior to Project construction, if the Project would result in loss of Swainson's hawk foraging habitat, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, unless otherwise require by an ITP for Swainson's hawk, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance	Project Applicant
BIO-3	*Special-Status Plant Surveys and Protection:* Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline). The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Project has consulted with CDFW and obtained CDFW's written approval, which may include topsoil salvage, transplanting, or habitat compensation. The Project shall obtain and comply with a CESA ITP from CDFW for any impacts to Mason's lilaeopsis or any other CESA or NPPA listed plants, and provide habitat compensation to mitigate impacts to Mason's lilaeopsis or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to	Prior to Ground Disturbance	Project Applicant

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	impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and/or long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including but not limited to the management plan(s) shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plan(s) funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW.		
BIO-4	*Burrowing Owl Surveys:* A qualified biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds), unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology. The habitat assessment shall focus on searching the CNDDB and potentially other sources for any burrowing owl records on or within at least one mile of the Project area, vegetation type and height, suitable burrows (with an opening greater than 11 centimeters [cm] in diameter and a depth greater than 150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. An additional survey shall be conducted within 24 hours prior to ground disturbance. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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	If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a take avoidance survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report. If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A qualified biologist shall monitor any detected owl to ensure it is not disturbed. If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted and shall obtain an ITP if deemed necessary by CDFW.		
BIO-5	*Caps, Pipes, and Hoses:* To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.	For Duration of Construction	Project Applicant

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BIO-6	*Bank Swallow Avoidance*: For Projects impacting streams, at least 30 days before commencement of Project activities, a qualified biologist shall provide an assessment of if stream banks with greater than 70 percent slope are present within disturbance distance for the species, provide justification for the proposed disturbance distance, and obtain approval in writing from CDFW. If stream banks with greater than 70 percent slope are identified within the disturbance distance, they shall be surveyed specifically for bank swallow burrows and nests one week before the start of Project activities and again immediately prior to the start of Project activities. If active bank swallow burrows or nests are found, consultation with CDFW shall be required before commencement of project activities. If there is a lapse in Project activities of more than seven days, surveys shall be repeated. If impacts to bank swallows cannot be avoided, an ITP may be required by CDFW.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-7	*Special Status Fish Protection:* In water work shall be avoided where special-status fish such as Delta smelt, longfin smelt, and white sturgeon may occur, as determined by a qualified biologist based on a review of CNDDB and consultation with CDFW. If take of the above fish species or any CESA listed or candidate aquatic listed species cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to commencing Project activities and shall comply with the ITP. The Project shall also consult with the USFWS or National Marine Fisheries Service for any impacts to federally listed fish.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-8	*Nesting Bird Surveys:* If construction, grading, vegetation removal, or other Project-related activities are scheduled during the avian nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within seven days prior to the beginning of Project-related activities. The survey shall consist of including the entire Project site and a minimum 500-foot buffer or the distance necessary as determined by a qualified biologist. If a lapse in Project-related work of seven days or longer occurs, another survey shall be conducted before Project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall immediately notify the CDFW and establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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	to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established. The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by Project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.		
BIO-9	*Giant Garter Snake Habitat Assessment*: A qualified biologist shall conduct a habitat assessment of Project areas in advance of Project activities to determine if the Project area or its vicinity contains suitable habitat for giant garter snake and shall provide the habitat assessment to CDFW and obtain CDFW's written approval of it. If suitable habitat is present, no more than 30 days prior to ground-disturbing activities, a qualified biologist shall survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which giant garter snake could be present. All potentially suitable burrows and crevices shall be flagged and avoided by a minimum 50-foot no-disturbance buffer. If a 50-foot radius buffer isn't feasible, the Project shall consult with CDFW to discuss how to implement the Project and avoid take of the species or whether and ITP is necessary.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-10	*Giant Garter Snake Habitat Buffer*: If potential aquatic habitat for giant garter snake has been identified in or within 200 feet of the Project area by the qualified biologist, a qualified biologist shall be present on-site to monitor all project activities.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-11	*Giant Garter Snake Observation*: If a snake species of any kind is observed within the Project site, then all Project activities shall halt, and work shall not continue until the snake species is identified by a qualified biologist. If giant garter snake is discovered at any time within the Project site and staging areas, then all Project activities shall halt until CDFW has been notified and the Project proponent can demonstrate compliance with CESA to CDFW's satisfaction. CDFW reserves the right to provide additional	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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	giant garter snake protection measures in the event of a giant garter snake detection.		
BIO-12	*Giant Garter Snake Take Prohibition*: If "take" of giant garter snake or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, the Project shall obtain a CESA permit pursuant to Fish and Game Code Section 2080 et seq. The take permit will likely include mitigation measures recommended in this letter and may include additional measures.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-13	*Giant Garter Snake Environmentally Sensitive Area Establishment:* The Project shall establish Environmentally Sensitive Areas (ESAs) in the Project area to minimize the disturbance of giant garter snake habitat from construction-related activities. The Project shall erect ESA fencing as directed by the Designated Biologist(s), 200 feet from the edge of potential aquatic giant garter snake habitat. The Designated Biologist(s) shall identify and flag all potential small mammal burrows within the Project Area as ESAs. In addition, all potential giant garter snake habitat that can be reasonably avoided during construction activities shall be identified as ESAs and shall be marked by the Designated Biologist(s). ESAs will be demarked by tying high visibility poly wire to stakes placed every six feet along the ESA boundary. The high visibility poly wire will be raised at least four feet above grade. The high visibility wire and stakes shall be marked with high visibility flagging or markers. All construction personnel shall be educated about the purpose of the ESA areas and avoid ESAs during all phases of construction. The Project shall avoid ESAs when siting all staging areas, spoils disposal areas, borrow pits, and construction equipment access routes. The Project shall not use plastic mono-filament netting on the Project site for ESA fencing, erosion control, or any other purpose to avoid entanglement of giant garter snake. The qualified biologist shall inspect the fencing before the start of each workday and the Project shall maintain the fencing until the completion of the Project. Project shall remove all fencing material upon completion of the Project.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-14	*Giant Garter Snake Exclusion Fencing:* To exclude giant garter snake from entering the Project area, the Project shall erect silt fencing between all aquatic habitat and upland habitat, one day subsequent to upland habitat disturbance. The Project shall submit the fencing design to CDFW for approval no less than 30 days prior to the proposed start of Project activities. The Project shall maintain fencing throughout all construction activities. A	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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	qualified biologist shall inspect the area prior to installation. The qualified biologist shall inspect the barrier daily and during and after storm events (rainfall exceeding 0.5 inches during a 24-hour period). The Project shall maintain and repair the barrier immediately to ensure that it is functional and without defects, that fencing material is taut, and that the bottom edge of the fencing material remains buried. The Project shall maintain vegetation within one meter on the side of the fence away from the Project Area at a maximum height of four inches. Fencing shall consist of taught silt fencing supported by wooden stakes on the Project side only. Fencing shall be buried a minimum of six inches below ground and soil shall be compacted against both sides of the fence for its entire length to prevent animals from passing under the fence. Fencing shall extend 12 to 18 inches above the ground. At any access opening in the fence, the fence shall turn 180 degrees away from the access point for a length of approximately 10 feet and at a minimum width of one foot from the original fence. The Project shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing. When the Project cannot avoid burrows, burrows shall be hand excavated by the qualified biologist prior to trenching activities. Giant garter snake found during excavation shall be relocated. Following excavation, the qualified biologist shall block holes or burrows which appear to extend under the fencing to minimize giant garter snake movement into the Project area. The Project shall remove fencing and all fencing materials upon completion of construction.		
BIO-15	*Giant Garter Snake Seasonal Work Restriction*: The Project shall conduct all construction activity within giant garter snake upland and aquatic habitat, including activity within 200 feet of aquatic habitat, between May 1 and October 1. This is the active period for giant garter snake and direct impacts are lessened because snakes are actively moving and avoiding danger. More danger is posed to snakes during their inactive period, because they are occupying underground burrows or crevices and are more susceptible to direct impacts, especially during excavation.	For Duration of Construction	Project Applicant
BIO-16	*Giant Garter Snake Dewatered Aquatic Habitat*: The Project shall dewater (or, in the case of rice fields, not irrigate the portion of field within the Project area) suitable giant garter snake aquatic habitat (e.g., wetlands,	For Duration of Construction	Project Applicant

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	drainages, rice fields) prior to any construction within suitable giant garter snake aquatic habitat. The Project shall ensure the habitat remains dry for at least 15 consecutive days after April 15 and prior to excavating or filling of aquatic habitat. The Project shall limit dewatering to April 15 to October 1. The Project shall limit dewatering to the immediate Project area and shall ensure that alternative aquatic habitat is available.		
BIO-17	*Giant Garter Snake Speed Limit and Existing Routes*: Project-related personnel shall access the Project site during construction and development activities using existing routes and shall not cross giant garter snake habitat outside of the Project site. Project-related vehicle traffic shall be restricted to established roads, staging, and parking areas. Vehicle speeds shall not exceed 20 miles per hour, except on county roads and state and federal highways, in order to avoid giant garter snake on or traversing the roads. If a giant garter snake is found on or traversing a roadway, workers shall immediately notify the qualified biologist. Workers shall allow the animal to safely move off the road.	For Duration of Construction	Project Applicant
BIO-18	*Giant Garter Snake Monofilament Restriction*: The Project shall not use plastic monofilament netting (erosion control matting) or similar material. The Project shall use native vegetation or other treatments including native slash, jute netting or straw wattles to protect and stabilize soils. Fiber rolls and other erosion control treatments shall be made with wildlife-friendly, biodegradable products that will not entrap or harm wildlife. Erosion control products shall not contain synthetic (e.g., plastic or nylon) netting or materials. The Project shall communicate this limitation to the contractor through use of Special Provisions included in the bid solicitation package. The Project shall bury the edge of the material in the ground to prevent giant garter snake and other reptiles and amphibians from crawling underneath the material.	For Duration of Construction	Project Applicant
BIO-19	*Giant Garter Snake Habitat Restoration*: The Project shall restore the temporarily impacted giant garter snake habitat on-site to pre-construction conditions. The Project shall re-contour, if appropriate, and re-vegetate these areas with appropriate locally available native plant species. The restoration effort shall comply with the USFWS Guidelines for the Restoration and/or Replacement of GGS Habitat (USFWS 2007) and shall be monitored for one year.	Post Construction	Project Applicant
BIO-20	*Giant Garter Snake Habitat Mitigation*: If impacts to giant garter snake cannot be fully avoided, then the Project shall provide compensatory habitat mitigation to offset	Prior to Ground Disturbance	Project Applicant

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	impacts to the species at a 3:1 mitigation ratio, unless otherwise approved in writing by CDFW. Habitat mitigation shall include purchasing giant garter snake credits from a CDFW-approved conservation bank that CDFW determines in writing is in current good standing, or placing a conservation easement over high quality giant garter snake habitat, including an interim and long-term management plan, and providing an endowment to manage the easement in perpetuity.		
BIO-21	*Habitat Restoration and Compensation, and Impacts to Streams and Riparian Areas:* The Project shall implement restoration onsite or offsite to mitigate temporary or permanent impacts to riparian habitat, sensitive natural communities, or wetlands at a minimum 1:1 (restore onsite temporary impacts) or 3:1 (permanent impacts) mitigation to impact ratio for acres and linear feet of impacts, or provide habitat compensation including permanent protection of habitat at the same ratio through a conservation easement and preparing and funding implementation of a long-term management plan, unless otherwise approved in writing by CDFW. Prior to the commencement of Project activities, the Project shall conduct a thorough assessment for potential impacts to streams and riparian habitat including but not limited to impacts resulting trail clearing, earth moving, and vegetation removal. If impacts to the bed, bank, channel, or riparian area of the streams cannot be avoided, the Project shall notify CDFW for potential Project impacts to the streams pursuant to Fish and Game Code section 1600 et seq. and shall comply with the SAA, if issued. More information for the Notification process is available at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA.The Project shall not commence activities with potential to impact the stream until the SAA process has been completed. Impacts to the streams and riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio in area and linear feet for permanent impacts, all temporary impact areas shall be restored, and trees shall be replaced at an appropriate ratio based on size and species, unless otherwise approved in writing by CDFW. An SAA, if issued, may include additional avoidance and minimize measures to protect fish and wildlife resources. Projects shall also obtain permits from the RWQCB and USACE pursuant to the Clean Water Act if applicable.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant