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Governor's Office of Planning & Research

December 15, 2021

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City of Chico Community Development Department
Mike Sawley, Principal Planner
411 Main Street, P.O. Box 3420
Chico, California 95927
mike.sawley@chicoca.gov

STATE CLEARINGHOUSE

RE: VALLEY'S EDGE SPECIFIC PLAN (PROJECT)(VESP)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) SCH#2019089041

Dear Mr. Sawley:

The California Department of Fish and Wildlife (CDFW) received and reviewed the DEIR from the City of Chico (City) pursuant the California Environmental Quality Act (CEQA) statute and guidelines¹.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise 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 provides, 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.

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alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The approximately 1,448-acre Project site is located in unincorporated Butte County within the City's Sphere of Influence, at the transition of the valley floor and lower foothill region. The proposed Project includes a mixed-use community with a range of housing types, commercial uses, parks, trails and recreation and open space areas. The residential component would consist of approximately 1,392 multi-generational or family housing residential units and 1,385 age-restricted (55+) residential units. The commercial portion includes approximately 56 acres designated for a mix of professional and medical offices, neighborhood retail shops and services, multi-family apartments, day care, and hospitality uses. Approximately 672 acres would be designated as parks, trails, open space and preservation, including a large regional park, a community park, neighborhood parks, mini parks and tot lots, and an active adult park.

COMMENTS AND RECOMMENDATIONS

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

ENVIRONMENTAL SETTING, IMPACTS AND MITIGATION MEASURES

Cumulative Impacts

Section 4.3-5 of the DEIR discusses the Project's cumulative effects to natural resources including special-status plant and animal species; however, the DEIR only focuses on Project impacts in relation to the unadopted Butte Regional Conservation Program (BRCP). The DEIR argues that the Project would not exceed any of the applicable maximum allowable removal thresholds established by the BRCP, and therefore, cumulative impacts to biological resources would be less than significant. The BRCP is not final or adopted and thus it should not be used in the cumulative analysis for this Project. The DEIR should include a complete cumulative impact analysis that does not rely on the BRCP.

Cumulatively, the Oak Valley Phase 1, Meriam Park, Belvedere Heights Phase 2, and Stonegate residential developments and the Canyon View High School site have already had a significant impact on local biological resources. If approved, the proposed

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Project will bring the total of permanently impacted habitats to nearly 1,000 acres of grassland habitat and several acres of sensitive aquatic habitat including vernal complexes, drainages, and seasonal wetlands. As addressed in this comment letter, many of Mitigation Measures BIO-1 through BIO-10 are unenforceable, based on outdated information, and/or fail to explain how the measures as implemented will be effective in reducing the impacts. For these reasons the implementation of Mitigation Measures BIO-1 through BIO-10 are insufficient to reduce the Project's cumulative impact to a less-than-significant level. The Project's contribution to cumulative impacts to biological resources as proposed will be cumulatively considerable resulting in a potentially significant cumulative impact. CDFW recommends that the Project alternatives are modified to ensure they avoid, minimize, or mitigate these cumulative impacts to natural resources described in Section 4.3-5 of the DEIR.

Deferred Mitigation

CEQA Guidelines §15126.4 (a)(1)(B) states that formulation of mitigation measures should not be deferred until some future time. The DEIR lists a number of mitigation measures for biological resources that rely on future approvals or agreements as a means to bring identified significant environmental effects to below a level of significance. Because there is no guarantee that these approvals or cooperation with all of the involved entities will ultimately occur, the mitigation measures are unenforceable and may not reduce the impacts to biological resources to a less-than-significant level. Mitigation measures should establish performance standards to evaluate the success of the proposed mitigation, provide a range of options to achieve the performance standards, and must commit the lead agency to successful completion of the mitigation. Mitigation measures should also describe when the mitigation measure will be implemented and explain why the measures are feasible. Therefore, CDFW recommends that the DEIR include measures that are enforceable and do not defer the details of the mitigation to the future. The DEIR defers mitigation for impacts to aquatic features, Butte County meadowfoam (*Limnanthes floccosa ssp. californica*) (BCM), and the removal of mature trees (addressed below). The DEIR should give an accurate and detailed explanation of proposed avoidance measures and compensatory mitigation to offset permanent impacts to these resources.

Impacts to Hydrologic Features and Associated Habitats

The DEIR should identify all perennial, intermittent, and ephemeral rivers, streams, and lakes within the Project footprint and any habitats supported by these features such as wetlands and riparian habitats that are subject to section 1600 et seq. of the Fish and Game Code. The DEIR should identify any potential impacts to fish and wildlife resources dependent on those hydrologic features; and estimate the footprint area that will be temporarily and/or permanently impacted by the proposed Project by hydrologic feature and habitat type. The maps in the DEIR do not clearly show the impact to these habitats which makes it difficult to know what will be impacted and what regulatory permits may be required. CDFW recommends updating the maps to provide this clarity.

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Notification to CDFW may be required, pursuant to Fish and Game Code, section 1602 if the Project proposes to: divert, obstruct, or change the natural flow or the bed, channel or bank of any river, stream, or lake; use material from a streambed; or result in the disposal or deposition of debris, waste, or other material where it may pass into any river, stream, or lake. The construction of recreational trails in riparian areas may also be an activity subject to Fish and Game Code, section 1602. In these cases, the DEIR should propose mitigation measures to avoid, minimize, and mitigate impacts to fish and wildlife resources.

Please note that CDFW definition of wetlands as well as extent of the areas regulated under Fish and Game Code, section 1602 differs from other aquatic resource regulatory agencies.

Butte County Meadowfoam

Butte County Meadowfoam is endemic to Butte County and is restricted to a narrow 25-mile strip along the eastern flank of the Sacramento Valley from central Butte County to the northern portion of the City. BCM populations and its habitat have been substantially reduced in number and fragmented by development.

In 2009 a genetic study of BCM throughout its range (Sloop, 2009) identified that the isolated, unconnected occurrences of BCM surrounding the City of Chico are genetically unique from occurrences north of and south of the City highlighting the importance of preserving the viability of smaller BCM populations.

The DEIR's proposed BCM mitigation measures are inadequate to reduce Project impacts to less-than-significant levels for the following reasons: a) assessment of Project impacts on BCM is based on survey results that are outdated and performed during periods of historic drought; and b) BIO-1 does not set specific performance criteria to ensure that the measure, as implemented, will be effective.

a) Protocol-level BCM Surveys

BCM is an annual species which occurs in habitat subject to annual fluctuations such as drought; therefore, BCM may not be evident and identifiable every year. Both the physical (i.e. 2018 Camp Fire) and climatic conditions within the Project area have changed since the last botanical field survey was conducted in 2017. Botanical surveys that are older than two years and performed in conditions that do not maximize detection may overlook the presence or actual density of BCM on the Project site. CDFW recommends additional protocol level botanical surveys be conducted at the appropriate time of year with proper weather conditions and the results be incorporated into the DEIR for review and comment. Both current and past survey results should be used to provide an accurate assessment of the BCM populations that may be impacted. (CEQA Guidelines, § 15126.4, subd. (a)(1)(B).) If after updating the surveys, it is determined that the project may have the potential to result in "take", as defined in the

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Fish and Game Code, section 86, of a State-listed species, the DEIR should disclose that an Incidental Take Permit (ITP) (Fish & G. Code, § 2081) should be obtained from CDFW prior to starting construction activities. The DEIR should include all avoidance and minimization measures that will be employed to reduce impacts to a less than significant level. If take of listed species is expected to occur even with the implementation of these measures, an ITP will include additional minimization and mitigation to fully mitigate the impacts to State-listed species (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)).

b) BCM Habitat Mitigation and Monitoring Plan

BIO-1 calls for the establishment of on-site preserves and requires the developer to prepare a Habitat Mitigation and Monitoring Plan, record easements, and complete other requirements, as necessary, to establish the two Butte County Meadowfoam preserves and the other preserve on the VESP project site in compliance with all applicable state and federal resource agency permits. The preserves shall be separated from any development by a minimum of 250 feet unless site-specific hydrological analysis accepted by the U.S. Fish and Wildlife Service demonstrates that a reduced separation would still prevent direct or indirect effects to Butte County meadowfoam within the preserve. No development shall be approved by the City within 500 feet of the avoidance area until the preserves are established.

Throughout the DEIR the “on-site preserves” for BCM are referred to inconsistently as either “Primary Open Space/P-OS” or “preserves.” The DEIR does not clearly define the locations of the on-site preserves graphically. The “preserve” limits and designations in Figure 4.3-4 of the DEIR conflict with those shown in Figure 2.5. In addition, the “preserves” shown on Figure 4.3-4 do not appear to extend 250 feet from all BCM occurrences as described in the DEIR. Without a static legal description and an accurate visual representation of the “preserves” it is impossible to determine whether their establishment is sufficient to avoid impacts to BCM populations.

Further, the DEIR provides no scientific evidence or assessment of whether such a small preserve is sufficient to successfully avoid all potential long-term impacts to BCM to a less-than-significant level within the project area. Construction of low-density residential development will abut the “on-site preserves” with no assessment provided of potential adverse impacts from project-related construction, maintenance, and fuel modification activities. Adverse impacts that could occur include but are not limited to edge effects such as a permanent change in year-round hydrology, exposure to herbicides, and introduction of invasive ant species onto the habitats occupied by these plants, which could interfere with pollination and dispersal. Without science-based evidence that a preserve of this size is sufficient to prevent long-term impacts and potential extirpation of BCM, impacts from adjacent development will continue to be significant. In addition to this, the small size of the preserves may make adaptative management difficult and could result in the extirpation of BCM at this location. CDFW

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recommends that additional biological studies including appropriate hydraulic studies are prepared to establish the minimum BCM preserve size.

The DEIR defers formulation of certain components of BIO-1 without setting specific performance criteria to ensure that these measures, as implemented, will be effective. For instance, BIO-1 mandates the "VESP Habitat Mitigation and Monitoring Plan shall include at a minimum: management techniques to be used on the preserves; monitoring methods and frequencies to detect changes in Butte County Meadowfoam and allow for adaptive management; and a funding strategy to ensure that prescribed monitoring and management would be implemented in perpetuity to ensure efficacy of the preserves." Yet the DEIR does not specify performance standards for evaluating the efficacy of the Habitat Mitigation and Monitoring Plan. Additionally, BIO-1 does not provide for any feasible alternatives should the long-term, irreversible impacts from the project result in impacts to BCM. Given the high variability of BCM populations, CDFW recommends annual BCM surveys are part of the long-term management plan to establish the long-term viability of the population and that the DEIR includes measures that will be implemented if BCM population declines are detected within the preserves.

Rare Plants

a) Protocol-level Rare Plant Surveys

The DEIR does not explain why it was infeasible for the project proponent to perform protocol-level rare plant surveys within the last two years so an accurate assessment of project impacts can be conducted (CEQA Guidelines, § 15126.4, subd. (a)(1)(B)). Both the physical (i.e. 2018 Camp Fire) and climatic conditions within the Project area have changed since the last botanical field survey was conducted in 2017. Botanical surveys that are older than two years and performed in conditions that do not maximize detection may overlook the presence or actual density of rare plants on the Project site. CDFW recommends additional protocol-level rare plant surveys be conducted at the appropriate time of year with proper weather conditions, and the results incorporated into the DEIR for review and comment. Protocol-level surveys shall be conducted in compliance with CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2021)*.

b) Shield-bracted Monkeyflower and Bidwell's Knotweed

Populations of shield-bracted monkeyflower (*Erythranthe glaucescens*) and Bidwell's knotweed (*Polygonum bidwelliae*) occur on the site (DEIR - Attachment C). Given the specialized habitats and limited range and distribution of these species they should be considered species of regional and local significance (§ 21155. 1, subd. (a)(2)(c)(iii)). CDFW recommends the avoidance and minimization measures provided for these species in the 2018 Biological Resource Assessment be incorporated into the DEIR to reduce project impacts to shield-bracted monkeyflower and Bidwell's knotweed.

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Western Spadefoot

The DEIR does not explain why the project proponent has not performed focused surveys for spadefoot toads (*Spea hammondi*). CDFW recommends focused multi-year surveys for spadefoot toads be conducted at the appropriate time of year with proper weather conditions. Survey methods and results should be incorporated into the DEIR for review and comment.

The DEIR states, "habitat for western spadefoot is limited to the northwestern portion of the project site where there are deeper soils and aquatic habitat." However, burrow depths can be quite shallow ranging from approximately 1/3 inch to 7 inches (Baumberger et. al 2019); therefore, suitable upland habitat for western spadefoot may be found throughout the site, not just in the northwestern portion. Western spadefoot are primarily terrestrial and have been recorded occupying upland habitat as far as 859 feet from the nearest aquatic breeding pool (Baumberger et. al 2019). To reduce impacts to western spadefoot, preserved habitat in the northwestern portion of the site should expand a minimum of 859 feet from all aquatic features. Preserved habitat should be placed in a conservation easement and fenced to prevent public access. In addition, potential long-term edge effects on preserved habitat including but not limited to altered hydrology, exposure to pesticides, and light pollution should be assessed and included in the DEIR for public review and comment.

Ringtail

CDFW recommends avoidance and minimization measures are implemented to mitigate potential impacts to ringtail (*Bassariscus astutus*) to less-than-significant. The DEIR states that only the riparian habitat within the Project site provides habitat for ringtail. The DEIR goes on to state, "the likelihood of denning is reduced because the project site does not have extensive riparian habitat (less than 1% of project site) and lacks permanent, year-round water."

Research shows that contrary to the popular conception that ringtails require open, permanent water for survival, studies have found many ringtail home ranges had no water source within them, and no ringtail were observed in the vicinity of water (Harrison 2012). Ringtails can be found in habitats lacking drinking water and are capable of producing urine concentrations among the highest known with the Procyonidae family which allows for water economy comparable to that of the desert kit fox (*Vulpes macrotis*) (Chevalier 2005). Ringtail are known to occupy oak woodland habitat with relatively large home ranges (Harrison 2012). Based on ringtails' ability to occupy a variety of habitats regardless of the presence of permanent water, all 487 acres of blue oak foothill pine habitat onsite is also suitable ringtail habitat. Habitat fragmentation of blue oak foothill pine habitat and removal of an estimated 200 acres of oak woodland proposed by the Project may have a significant impact on any ringtails occupying the site. In addition, the impacts from the construction of trails throughout riparian and blue oak foothill pine habitat and light pollution from project development may be significant

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impacts to resident ringtail and should be assessed and included in the DEIR for review and comment.

CDFW recommends a thorough and accurate assessment of direct project related impacts on ringtail and its habitat be included in the DEIR prior to Project approval. To minimize long-term impacts to ringtail and their habitats, CDFW recommends the 487 acres of blue oak foothill pine habitat and 13 acres of valley foothill riparian be avoided as much as possible. These avoided habitats should be placed in a conservation easement and fenced to prevent public access. In addition, avoidance and minimization measures to reduce the effect of light pollution on these avoided habitats should be included in the DEIR. Please note that ringtails are fully protected species and CDFW cannot authorize take to this species.

Nesting Bird Surveys.

The nesting bird season is generally defined as February 1 through August 31; however, earlier nesting may occur based on several factors including species, altitude, and weather. Fish and Game Code section 3503 protects the nests and eggs of all birds, not just migratory birds and birds of prey, regardless of the time of year. To minimize the chances of missing nests, pre-construction surveys for nesting birds may need to be performed outside of the general nesting bird season.

In addition, CDFW recommends BIO-2(b) be revised to read as follows: "If any active nests are observed during surveys, a qualified biologist shall establish a suitable avoidance buffer from the active nest. The buffer distance *shall be a minimum of 250 feet for passerines and 500 feet for raptors. Buffer distances may be increased or reduced* based on factors such as the species of bird, topographic features, intensity and extent of the disturbance, timing relative to the nesting cycle, and anticipated ground disturbance schedule *as determined by the qualified biologist*. Limits of construction to avoid active nests shall be established in the field with flagging, fencing, or other appropriate barriers and shall be maintained until the chicks have fledged, are foraging independently, and are no longer dependent on the nest, as determined by the qualified biologist. *The qualified biologist shall regularly monitor the nest and shall have stop work authority if construction activities are having an adverse impact on the nest.* CDFW shall be consulted if active nests are observed during the pre-construction survey."

Bird Enhancement and Mortality Reduction Strategies in Project Design and Implementation.

Proposed development will ultimately border existing open space areas and drainages onsite. These open space areas provide suitable habitat for nesting birds. Placement of buildings adjacent to suitable nesting bird habitat may adversely affect bird populations by introducing sources of common bird mortalities such as reflective windows that birds may collide with. Given declines in segments of the overall bird population and

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ecological benefits of healthy bird activity, CDFW recommends consideration of bird enhancement and mortality reduction strategies in project design and implementation. Incorporation of these strategies can reduce anthropogenic effects on birds and promote sustainable development in California.

Collisions with clear and reflective sheet glass and plastic is also a leading cause in human-related bird mortalities. Many types of windows, sheet glass, and clear plastics are invisible to birds resulting in casualties or injuries from head trauma after an unexpected collision. Birds may collide with windows as little as one meter away in an attempt to reach habitat seen through, or reflected in, clear and tinted panes (Klem 2014), so even taking small measures to increase visibility of windows to birds can make a substantial difference in minimizing long-term impacts of urban development near natural environments.

Incorporation of bird and wildlife strategies not only promotes environmental stewardship but also facilitates compliance with State and federal protections aimed at preserving bird populations. CDFW recommends that the City includes in the DEIR bird and wildlife friendly strategies for all windows within the project:

- Install screens, window patterns, or new types of glass such as acid-etched, fritted, frosted, ultraviolet patterned, or channel. Additional information can be found at <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>.

Mitigation to Minimize Artificial Lighting Impacts

Artificial light is another outcome of development. Roads and buildings typically include exterior night lighting and therefore have potential to introduce or increase light pollution to adjacent fish and wildlife habitat. The adverse ecological effects of artificial night lighting on terrestrial, aquatic, and marine resources such as fish, birds, mammals, and plants are well documented (Johnson and Klemens 2005; Rich and Longcore 2006). Some of these effects include altered migration patterns and reproductive and development rates, changes in foraging behavior and predator-prey interactions, altered natural community assemblages, and phototaxis (attraction and movement towards light). Light pollution disrupts the ability of night-foraging birds (CDFW 2007).

Illumination of riparian corridors by night lighting has the potential to adversely affect birds. Physiological, developmental, and behavioral effects of light intensity, wavelength, and photoperiod on bird species are well documented. In the wild, urban lighting is associated with early daily initiation of avian song activity (Bergen and Abs 1997). Avian species are known to place their nests significantly farther from motorway lights than from unlighted controls (de Molenaar et al, 2000). Placement of nests away from lighted areas implies that artificial light renders part of the home range less suitable for nesting. If potential nest sites are limited within the bird's home range, reduction in available sites associated with artificial night lighting may cause the bird to use a suboptimal nest

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site that is more vulnerable to predation, cowbird parasitism, or extremes of weather. Artificial lighting generally threatens wildlife by disrupting biological rhythms and otherwise interfering with the behavior of nocturnal animals (contributions from Artificial Night Lighting Conference, 2002). Nocturnal and migrating birds, migrating bats, insects, fish, and amphibians are particularly affected by artificial night lighting (Evans Ogden 1996 and citations therein). Billions of moths and other insects are killed from lights each year. Nocturnal birds use the stars and moon for navigation during migrations. When these birds fly through a brightly lit area, they can become disoriented, which can lead to injury and/or death. In addition, artificial lighting can affect aquatic invertebrates that are prey for other animals. Other references that may provide useful insight into the analysis of indirect impacts include Longcore and Rich (2001) and the National Cooperative Highway Research Program (2002).

As described in the DEIR, it would be difficult, if not impossible, to orient the lights in a manner that obstructs all light from reaching wildlife and their habitats onsite. The glow cast from headlights and streetlights would spill into sensitive habitats. In an area that now experiences minimal urban lighting (sky glow) and almost no direct lighting, this would likely constitute a significant biological impact. CDFW recommends the DEIR include minimum setbacks between artificial lights and adjacent woodland and riparian habitats to reduce this potentially significant impact.

Oak Woodland

The proposed oak woodland impacts listed in the DEIR contradict the acreages of habitat provided in the 2018 Biological Resource Assessment (BRA) (DEIR-Attachment C). Section 4.3-2 of the DEIR states. Please clarify this discrepancy, the DEIR should accurately present and analyze impacts to all habitats present onsite.

Per the DEIR, the Project will convert an estimated 200 acres of blue oak foothill pine woodland to development while preserving 80% of the existing oak canopy onsite; however, based on the information provided in the 2018 BRA, the project site only contains 485.7 acres of blue oak foothill pine habitat. Therefore, the Project is proposing to permanently convert approximately 40% of the existing blue oak foothill pine habitat to development.

The Oak Woodland section on page 29 of the 2018 BRA states, "An oak canopy evaluation was conducted within the BSA by Gallaway Enterprises in 2017. This oak canopy evaluation involved the GIS mapping of the oak canopy within the BSA and the use of survey plots to ground truth and collect data to estimate the number of trees within the oak canopy mapped. The resulting acres of oak canopy mapped was a total of 239 acres with the average of 23 trees per an acre of canopy. The DEIR does not provide a figure showing where the 239 acres of oak woodland is located. Without knowing the location of this oak woodland, direct and indirect project impacts on the woodland cannot be analyzed. CDFW recommends a map of the 239 acres of oak woodland be included in the DEIR.

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The VESP concludes that Project developer(s) shall appropriately mitigate for trees removed and/or damaged by the Project in accordance with the VESP Oak Woodland Mitigation and Monitoring Program (OWMMP) (such as planting onsite, off site, or paying an in-lieu fee). Mitigation ratios provided in the OWMMP vary from 1:1 to 9:1 with differing years of monitoring required. The 9:1 ratio would require planting 9 acorns for each tree removed. These mitigation ratios are inadequate for the replacement of mature native oak trees. The OWMMP goes on to state, "Replacement trees shall be of similar species, unless otherwise approved by the Director or their designee, and shall be placed in areas dedicated for tree plantings such as open space corridors, gateway areas, center medians, parks, and recreational areas." Planting trees of a different species in center medians, parks, and recreational areas is inadequate mitigation for the replacement of native oak trees and woodlands. Oak trees are characterized by large, spreading canopies that provide shade and perching, nesting, and foraging habitat for a wide variety of wildlife. Planting the trees in medians, park and recreational areas does not provide the same habitat values as the oak woodland impacts caused by the Project and is not adequate mitigation to offset Project impacts.

Oak trees typically have a very slow growth rate. The mitigation ratios proposed by the DEIR, would not adequately replace the habitat value that would be lost as a result of the removal of these types of trees. There would be a temporal loss of this habitat, due to the fact that replacement oak trees would not attain comparable size and structure until many decades or more. CDFW recommends the DEIR provide analysis showing that BIO-9 would be likely to succeed in recreating or restoring the oak woodland lost to project development. In addition, the DEIR should include specifics of where the mitigation trees will be planted, establish success criteria for mitigation plantings. CDFW recommends these oak mitigation areas be permanently protected via a conservation easement to ensure the perpetual existence of oak woodland and riparian corridors within the Project site.

The OWMMP also defers formulation of the in-lieu fee program as an alternative to onsite tree replacement. An in-lieu fee to mitigate impacts to oak woodland within the City does not exist. The OWMMP provides no explanation as to whether the in-lieu fee payment will be used to mitigate impacts to oak woodland. The OWMMP does not specify the fees to be paid or the number of trees to be planted offsite, nor does it identify whether any other sites might be available to the City for the planting of new oak trees. The DEIR also does not contain any analysis of the feasibility of an offsite tree replacement program. Similarly, the Regeneration Banking option provided in the OWMMP offers no information as to where oak trees will be planted. CDFW recommends the DEIR provides additional details needed to implement the Regeneration Banking as an oak woodland mitigation option.

CDFW is concerned that the OWMMP appears to exempt tree mitigation for trees removed as part of wildfire risks (section E.2(1) of OWMMP) and those in open space areas (section E.2(4) of OWMMP). The DEIR does not include information on how many

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trees these exemptions may apply to, and therefore an accurate assessment of the significance of these exemptions on existing oak woodland cannot be performed. CDFW recommends that all trees impacted by the project are mitigated.

Additionally, throughout the OWMMP the Community Development Director or their designee is granted the authority to deem trees exempt from the OWMMP (section E.2 (1, 4) of OWMMP), waive and adjust mitigation requirements for trees removed (section E.6 (4) of OWMMP), and determine species of replacement trees (section E.6 (5) of OWMMP). CDFW recommends the OWMMP be redrafted to remove all exemptions and authorities granted the Community Development Director to ensure trees removed are mitigated.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special- status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

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

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

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Due to information in the public record, previous biological surveys conducted for the Project site, and the sensitivity of the biological resources present within the direct Project footprint, CDFW concludes that the Project as proposed will result in a significant impact to the environment. CDFW respectfully recommends the comments included in this letter be addressed. CDFW requests to be consulted when the City addresses these comments to ensure that the project will adequately mitigate the potential impacts to special-status species present within the Project area.

CDFW appreciates the opportunity to provide comments on the Project and we hope you will contact us to discuss our concerns, comments, and recommendations in greater detail. If you have any questions, please contact Melissa Murphy, Senior Environmental Scientist (Specialist), at melissa.murphy@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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CEQA Comment Letters
California Department of Fish and Wildlife

State Clearinghouse

REFERENCES

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