



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 31, 2020

Governor's Office of Planning & Research

Aug 31 2020

Mr. Daniel Hernandez
City of Commerce
2535 Commerce Way
Commerce, CA 90040
DHernandez@ci.commerce.ca.us

STATE CLEARINGHOUSE

Subject: Modelo Project, Draft Environmental Impact Report, SCH #2019080312, City of Commerce, Los Angeles County

Dear Mr. Hernandez:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Draft Environmental Impact Report (DEIR) for the Modelo Project (Project). The DEIR's supporting documentation includes *Appendix A: Initial study, Notice of Preparation and Comments*.

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

CDFW's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state 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, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 2 of 23

Project Description and Summary

Objective: The Project involves the demolition of the existing Veterans Memorial Park and an adjacent vacant parcel and redevelopment of the 17.37-acre site (collectively) to accommodate a mixed-use development. The Veterans Memorial Park currently includes a baseball diamond, two basketball courts, a community center, a parking lot, and miscellaneous outdoor recreational spaces. The vacant lot to the east of Veterans Memorial Park has been vacant since 1988. The vacant lot, although previously paved, is now characterized by sparse, vegetation, which covers disparate portions of the remaining asphalt and concrete under existing conditions.

The proposed Project would include the following:

- a) Veterans Memorial Park – construction of a four-story, 77,050-square foot community center; sports complex; playground; public open space located immediately adjacent to the community center; green space leading towards a grass-stepped amphitheater; and 5,000-square foot Latino Museum.
- b) Residential – construction of 850 new residential units on the western portion of the site.
- c) Entertainment Retail – 165,000 square feet of commercial uses would be developed with entertainment retail contained within a three-story building located along the northeast edge of the site. The proposed commercial building would include an approximately 250-foot (15-story) high tower on the northeastern corner of the site. The proposed tower would be 220 feet high to the top floor and 250 feet high at its highest point (i.e., including the architectural screen) and would provide an additional 65,000 square feet of residential uses.
- d) Parking and Site Access – 1,273 spaces, including 50 above-grade parking spaces and 75 loading-zone spaces. The Project would provide approximately 525 spaces for the proposed commercial uses. The subterranean parking structure would be constructed beneath the retail, community center, and residential living areas.
- e) Transportation and Transit – add a Commerce Bus Line stop at Veterans Park, near the Community Center and retail uses, on the eastern portion of the Project site.

Project activities would include excavation and removal of all former landfill debris and 380,000 cubic yards of contaminated soils. It is estimated that the Project would require excavation to approximately 20 feet below ground surface. Construction would commence in March 2022 and terminate in 2024. Construction activities would include demolition, site preparation, grading/earthwork, building construction, paving, and architectural coating. During the most intensive phase of construction, approximately 105 workers would be required per day and approximately 64 truck trips would occur per day. Off-road construction equipment that would be used during construction would include an excavator, a skid steer loader, rollers, air compressors, a forklift, and a crane.

Location: The Project is located immediately west of the I-5 freeway, south of Zindell Avenue; and east of a single-family residential neighborhood, located west of Avenida Aguascalientes; and north of the Rio Hondo River and bike path. The addresses associated with the Project site

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 3 of 23

consist of 7316 Gage Avenue and 6364 Zindell Avenue. The Project site is composed of four Assessor's Parcel Numbers (APNs): 6357-018-005 (7.92 acres); 6357-019-900 – Parcel 1 (4.98 acres); 6357-019-904 – Parcel 2 (4.40 acres); and, 6357-019-905 (0.02 acres).

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Assessment of Impacts to Biological Resources

Issue: A DEIR is intended and required to provide more detail than an Initial Study (IS) (CEQA Guidelines, § 15063). CDFW finds that DEIR does not provide sufficient detail and disclosure that the City fully evaluated potential impacts to candidate, sensitive, or special status plants, wildlife, or sensitive vegetation communities that could occur in the Project site and surrounding areas. Specifically, Chapter 3.3 of the DEIR does not provide documentation that CDFW's California Natural Diversity Database (CNDDDB) was accessed to perform a nine-quadrangle search for biological resources that could be found in the Project site and surrounding areas. The Project site may be disturbed; however, the City should still exercise due diligence to thoroughly evaluate the potential for special status species and suitable habitat to occur to adequately conclude that the Project site does not support additional sensitive or special-status plants, wildlife, associated habitats, and vegetation communities.

Specific Impacts: Direct impacts to plant and wildlife species not previously known or identified to be on the Project site or within its vicinity could possibly occur. This may result in mortality, reduced reproductive capacity, population declines, or local extirpation of a sensitive or special status plants and wildlife.

Why impacts would occur: Project construction and activities such as vegetation clearing, operating large equipment (e.g., excavator, rollers, air compressors, forklift, and crane), and ground disturbance (e.g., staging, demolition, grading, and excavating) may have direct impacts on sensitive or special status plant and wildlife species and indirect impacts by modifying or removing habitat.

Evidence impacts would be significant: Impacts to special status plants and wildlife species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant and wildlife species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative 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 United States Fish and Wildlife Service (USFWS). CDFW considers impacts to California Species of Special Concern (SSC) a significant direct

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 4 of 23

and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: If the City and/or qualified biologist familiar with southern California plants performed a nine-quadrangle search of the CNDDDB in preparation of the DEIR, CDFW recommends the DEIR include documentation of a database search. Chapter 3.3 should provide a list of species returned from the CNDDDB. Provide a table listing each species and for each species, provide its scientific (i.e., Latin) name, Genus and species, subspecies or variety if applicable; species common name; CESA and Federal Endangered Species Act (ESA) listing status; and a brief evaluation of the potential for that species or suitable habitat for that species to occur in the Project site. For wildlife, wintering, roosting, nesting, and foraging habitat should have been evaluated.

Mitigation Measure #1: If the City did not perform a nine-quadrangle search of the CNDDDB in preparation of the DEIR, CDFW recommends the City perform an additional, more thorough biological assessment according to the following recommendations:

- a) Perform a search of the CNDDDB in the following nine quadrangles containing and surrounding the Project site: Hollywood; Los Angeles; El Monte; Inglewood; South Gate; Whittier; Torrance; Long Beach; Los Alamitos.
- b) Provide a summary in Chapter 3.3 documenting a database search and list of data sources accessed that should include at a minimum:
 - a) [California Natural Diversity Database \(CNDDDB\)](#) provided by the CDFW.
 - b) [Information on Wild California Plants](#) database provided by Calflora.
 - c) [Inventory of Rare and Endangered Plants of California](#) database provided by the California Native Plant Society (CNPS).
- c) Provide a table listing all species returned from database search. The table should provide a species scientific (i.e., Latin) name, Genus and species, subspecies or variety if applicable; species common name; CESA and ESA listing status; and a brief evaluation of the potential for that species or suitable habitat for that species to occur in the Project site. For wildlife, wintering, roosting, nesting, and foraging habitat should be evaluated.
- d) For any species determined to have a 'Moderate' or 'High' potential to occur or suitable habitat is present, a qualified biologist familiar with southern California plants should follow up with a season appropriate field survey to adequately conclude presence/absence of those species. Results of a field survey, including negative findings, should be summarized in Chapter 3.3 and complete methods and results provided in a report as an appendix to the DEIR. The report should provide the following information at a minimum:

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 5 of 23

- a) A description and map of the survey area. The survey area should include the Project site and a 100-foot buffer around the site as access allows.
- b) Field survey conditions that should include name(s) of qualified biologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; and survey goals.
- c) Use species-specific protocols if applicable. Survey protocols and guidelines for special status plants and wildlife may be found on CDFW's [Survey and Monitoring Protocols and Guidelines](#) webpage. For wildlife, wintering, roosting, nesting, and foraging habitat should be evaluated. Many wildlife species utilize fossorial mammal dens and burrows as habitat structure.
- d) If a qualified biologist finds that a plant or wildlife species is absent, for each species, provide a detailed discussion to support this determination was made. A one-sentence determination without scientific evidence to justify the conclusion will be insufficient.
- e) If a plant or wildlife species is detected, for each species, provide a discussion of potential Project impacts and species-specific avoidance measures. Avoidance measures should be effective, specific, enforceable, and feasible actions. A list of additional avoidance measures should be included in the DEIR document wherever mitigation measures are listed (e.g., Executive Summary, Chapter 3.3.7). For unavoidable Project impacts, provide detailed species-specific plans for on- or off-site mitigation for potential impacts to plants, wildlife, and habitat. A list of additional on- or off-site mitigation should be included in the DEIR document wherever mitigation measures are listed (e.g., Executive Summary, Chapter 3.3.7).

Recommendation #2: If new significant impacts would result and a revision of the DEIR is needed, CDFW recommends recirculating the environmental document so CDFW may provide more meaningful comments on avoidance, minimization, and mitigation measures (CEQA Guidelines, § 15088.5).

Comment #2: Surveys for Rare Plants

Issue #1: Page 3.3-6 of the DEIR states, "A desktop analysis and site reconnaissance survey was conducted in order to confirm the preliminary conclusions outlined in the Initial Study." CDFW is unable to determine when and how many field surveys were conducted in preparation of the DEIR. Since the DEIR is dated July 2020, any botanical surveys conducted during the previous fall or winter; once during the spring; or once during drought conditions in the summer do not maximize detection of flowering plants if any are present. The reconnaissance survey may have had missed detections of rare plants.

Issue #2: Page 3.3-6 of the DEIR states, "southern tarplant (*Centromadia pungens* ssp. *laevis*), has a moderate potential to occur within the Project site because it is known to occur in highly disturbed areas and there are recent records of the species occurring six miles to the north-northeast, adjacent to the Rio Hondo." Mitigation Measure BIO-1 proposed in the DEIR states, "Prior to initiation of construction activities, focused surveys shall be conducted in suitable

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 6 of 23

habitat within the proposed Project footprint". Please note that the common name of *C. pungens* ssp. *laevis* is smooth tarplant, not southern tarplant as is used in the DEIR. Accordingly, CDFW will refer to *C. pungens* ssp. *laevis* as smooth tarplant moving forward.

CDFW is concerned that the Project would rely on preconstruction surveys for smooth tarplant. Species-specific surveys for smooth tarplant should have been conducted in preparation of the DEIR. Deferring surveys does not allow for adequate disclosure of potential impacts during the CEQA review period. Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures.

Specific Impacts: Direct impacts to plants not previously known or identified to be on the Project site or within its vicinity could possibly occur. This may result in mortality, reduced reproductive capacity, population declines, or local extirpation of a sensitive or special status plant.

Why impacts would occur: Botanical surveys conducted during the fall and winter, or ongoing drought conditions during the summer do not maximize detection of rare plants if any are present. Additionally, a single survey in spring may not accurately capture population distribution and abundance because plants typically emerge at different times throughout its bloom period. The bloom period for smooth tarplant is generally from April through September. A fall reconnaissance survey may have been too late in the season to accurately capture population abundance and distribution, and a winter survey would not detect any plants above ground.

If Project construction is proposed to begin in March 2022, a preconstruction survey may not detect smooth tarplant. Moreover, smooth tarplant abundance and distribution varies annually depending on the timing, duration, and amount of seasonal rainfall. Because of this variation, preconstruction surveys conducted during years of rainfall inadequate to germinate the species may result in missed detections. Also, multiple surveys are necessary to accurately capture where smooth tarplant occurs. The absence of above-ground plants may not necessarily be indicative of actual population absence or size. A single preconstruction survey may be insufficient to detect smooth tarplant. Project construction and activities such as vegetation clearing, operating large equipment (e.g., excavator, rollers, air compressors, forklift, and crane), and ground disturbance (e.g., staging, demolition, grading, and excavating) may have direct impacts on sensitive or special status plant species and indirect impacts by modifying or removing habitat. Construction and activities proceeding after a false negative preconstruction survey may result in irrevocable damage to a rare plant seedbank, causing population declines, or local extirpation of a sensitive or special status plant.

Evidence impacts would be significant: Relying on future surveys is considered deferred mitigation under CEQA. A DEIR should provide detailed information about the effect which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161). In order to analyze if a project may have a significant effect on the environment, the Project related impacts, including protocol survey results for CEQA-rare, SSC, or CESA-listed species that could occur in the Project footprint need to be disclosed. This disclosure is necessary to allow CDFW to comment on alternatives to avoid impacts, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 7 of 23

Plants with a California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS [Rare Plant Ranks](#) page for additional rank definitions. Impacts to special status plants should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plants will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative 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 USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends the DEIR remove *MM-BIO-1 Rare Plant Surveys* that conditions the Project to perform preconstruction surveys.

Mitigation Measure #1: CDFW recommends that the City retain a qualified biologist familiar with southern California plants to perform at least two species-specific surveys at the peak and near end of the flowering season for smooth tarplant. Surveys should be conducted in suitable habitat within the proposed Project footprint, specifically, the vacant lot. Focused surveys should be conducted according to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#). Species-specific surveys would allow for identification of any areas where these species occur and if possible, how these areas/impacts may be avoided, as well as inform appropriate minimization and mitigation measures.

Recommendation #2: CDFW recommends a summary of survey methods, including negative findings, be provided in Chapter 3.3, and a full survey report provided as an appendix to the DEIR. If smooth tarplant is found, CDFW recommends the DEIR include a detailed map in Chapter 3.3 to show the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. A complete survey report should provide the following information:

- a) A description and map of the survey area.
- b) Field survey conditions that should include name(s) of qualified biologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched.
- c) If a qualified biologist does not find smooth tarplant, provide a detailed discussion to support this determination was made. A one-sentence determination without scientific evidence to justify the conclusion will be insufficient.
- d) If smooth tarplant is found, provide a map showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. Use appropriate symbology, text boxes, and other map elements to show and

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 8 of 23

distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation.

- e) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where smooth tarplant was found.

Comment #3: Avoidance, Minimization, and Mitigation Measures for Rare Plants

Issue #1: With respect to avoiding impacts to rare plants, MM-BIO-2 states, "If rare plants are found and avoidance is not feasible, then one of the following options shall be implemented [...]". CDFW is concerned that the DEIR's Mitigation Measure BIO-2 is inadequate to fully avoid potential impacts to rare plants because BIO-2 does not provide any specific and enforceable actions.

Issue #2: With respect to on-site mitigation for impacts to rare plants MM-BIO-2 states, "if the Project can be modified to minimize impacts to rare plants, then the Project shall compensate the loss of the species and associated habitat through on-site restoration, creation, and preservation of a minimum of an equal amount of acreage of what is being impacted by the Project (1:1)." While CDFW agrees with preservation of plants and habitat proposed, CDFW disagrees with on-site preservation ratio of 1:1 for impacts to rare plants and associated habitat.

Issue #3: With respect to off-site mitigation for impacts to rare plants MM-BIO-2 states, "if the Project cannot be modified to avoid or minimize impacts to rare plants, then the Project, then off-site land with similar habitat in the range of the species shall be identified and purchased at 2:1 of the acreage of what is being impacted by the Project." CDFW disagrees with off-site preservation ratio of 2:1 for impacts to rare plants and associated habitat.

Issue #4: Mitigation Measure BIO-2 also describes measures to salvage or relocate any rare plants. CDFW is concerned that intentions to salvaging and moving plants to another location may be ineffective to mitigate for the Project's unavoidable impacts.

Specific Impacts: Permanent loss of rare plant populations without adequate avoidance or mitigation measures. Salvage or relocation of smooth tarplant may lead to the mortality of plants while in transit. Low survivorship or mortality of all transplanted propagules in the off-site mitigation area, resulting permanent loss of smooth tarplant.

Why impacts would occur: Transplantation is the process of moving an individual plant from a project site and permanently moving it to a new location. CDFW generally does not support the use of transplantation as a mitigation strategy for unavoidable impacts to rare, threatened, or endangered plants. Studies have shown that these efforts are experimental and the outcome unreliable. Rare plants are habitat specialists that require specific conditions to persist such as vegetation composition (species abundance, diversity, cover), soils, substrate, slope, hydrology, and pollinators. Transplantation of rare plants to an off-site location not meeting habitat conditions and requirements may cause mortality of rare plant propagules.

Evidence impacts would be significant: Impacts to special status plants and wildlife species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 9 of 23

direct, indirect, and cumulative 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 USFWS.

Plants with a California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Project impacts to any rare plants on site may result in local extirpation of a sensitive or special status plant.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends modifying the DEIR's proposed MM-BIO-2 by removing the language with strikethrough and including the underlined language. CDFW recommends the City update recommended language proposed below to reflect specific Project impacts (pending additional rare plant surveys) and provide species-specific measures.

Mitigation Measure #1:

MM-BIO-2 Rare Plant Habitat Compensation.

Avoidance and preservation. If rare plants are found, the Project shall avoid impacts by preserving each population. The total preserved area shall include the core population, habitat, an additional buffer to adequately protect the core population and habitat while allowing for the population to spread outwards. To the extent feasible, the areas between preserved locations shall also be preserved in order to establish connectivity between adjacent populations.

Before Project construction and activities, a qualified botanist familiar with southern California rare plants shall map preserved areas and document baseline population metrics (i.e., plant abundance, density). The City of Commerce and/or Comstock Realty Partners, LLC. shall work with a qualified botanist to develop measures to avoid impacts to preserved areas during the Project. The City of Commerce and/or Comstock Realty Partners shall also work with a qualified botanist to develop a permanent Fencing Plan to prevent unauthorized access by pedestrians and vehicles into sensitive areas while allowing for safe wildlife passage. A Fencing Plan shall provide monitoring measures to ensure protective measures are effective and there is no loss of rare plants.

Prior to Project construction and activities, the perimeter of preserved areas shall be adequately demarcated with temporary fencing. Temporary fences shall be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Activities shall remain within the Project footprint (i.e. outside the fencing) and fencing shall be maintained for the duration of the Project. Staging and other material piling shall be relocated away from preserved areas. All workers shall be advised of the intent of the protection measures prior to the start of project construction and activities.

Temporary fencing shall be removed in phases depending on construction progress, and permanent fencing shall be constructed in its place to permanently preserve rare plants and habitat.

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 10 of 23

On-site preservation. If avoidance is not feasible as described above, the Project shall compensate the loss of the species and associated habitat through on-site restoration, creation, and preservation of a minimum of an equal amount of plants and habitat acreage of what is being impacted by the Project at (1:1) no less than 7:1 for plants with a California Rare Plant Rank of 2 and 10:1 for CRPR 1 plants.

The preserved portion of the site shall be designated as open space preserve and placed within a protective easement for conservation purposes, such as a restrictive covenant or conservation easement. The City of Commerce and/or Comstock Realty Partners, LLC. shall work with a qualified botanist familiar with southern California rare plants to identify an area suitable for on-site mitigation. The City of Commerce and/or Comstock Realty Partners shall also work with a qualified botanist to develop a Fencing Plan to prevent unauthorized access by pedestrians and vehicles into sensitive areas while allowing for safe wildlife passage. A Fencing Plan shall provide monitoring measures to ensure protective measures are effective and there is no loss of rare plants. Signage and fencing shall be provided at perimeter locations. Fencing design shall be developed to promote safety of life and property, prevent unauthorized access by pedestrians and vehicles into sensitive areas, and allow limited passage for wildlife species in the local area.

An on-site restoration plan shall be prepared by a qualified botanist and/or restoration specialist and include the following information: a) the specific location of restoration sites and assessment of reference sites; b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; c) a schematic depicting the mitigation area; d) a local seed and cuttings and planting schedule; e) a description of the irrigation methodology; f) measures to control exotic vegetation on site; g) specific success criteria; h) a detailed monitoring program; and i) contingency measures should the success criteria and providing for conservation of the mitigation on site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought.

The Project shall apply a minimum success criterion of 80% survival of all plants the first year, and 100% survival thereafter. Proposed plantings shall replace these species at the existing densities with no more than a 10% cover, diversity, abundance, or density deviation. Prior to the revegetation areas being determined successful, they shall be entirely without supplemental irrigation, weeding, or plant replacement, for a minimum of 3 years (as weeding and plant replacement are considered site establishment). Herbaceous invasive species shall not exceed 5% cover (zero % cover for any species listed on the [California Invasive Plant Council's](#) invasive plant list, including the watch list). If the survival, density, and cover requirements have not been met, the City of Commerce and/or Comstock Realty Partners will be responsible for replacement planting to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for 7 years after planting, with 3 additional years of no irrigation, weeding, or further replacement planting.

A plan for on-site mitigation shall be fully developed and executed prior to Project construction.

Off-site preservation. If the Project cannot be modified to avoid impacts to rare plants and on-site mitigation is not feasible, then the Project, then off-site land with similar habitat in the range of the species shall be identified and purchased at 2:1 no less than 7:1 of the acreage of what is being impacted by the Project. The City of Commerce/Comstock Realty Partners, LLC. shall

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 11 of 23

work with a qualified botanist to identify the appropriate off-site mitigation land, and in coordination with the California Department of Fish and Wildlife. The purchased lands shall be designated as an open space preserve and placed within a protective easement for conservation purposes, such as a restrictive covenant or conservation easement. An off-site mitigation plan shall be developed per specifics described above and the same minimum success shall be applied. Signage and fencing shall be provided at perimeter locations. Fencing design shall be developed to promote safety of life and property, prevent unauthorized access by pedestrians and vehicles into sensitive areas, and allow limited passage for wildlife species in the local area.

A plan for off-site mitigation shall be fully developed and executed prior to Project construction.

Recommendation #1: CDFW recommends the Project/final environmental document remove *Prepare and Implement Plan for Salvage, Relocation, and/or Propagation of Special-Status Plant Species* from MM-BIO-2. A plan for on- or off-site mitigation should address techniques, locations, and procedures for seed collection; propagation of rare plants; procedures for successful establishment; and monitoring and reporting requirements.

Recommendation #2: CDFW recommends incorporating language to the DEIR and MM-BIO-2 that would disclose potential Project impacts more clearly. This includes the number of plants and acres of supporting habitat impacted. Impacts should be species-specific. Impacts to habitat should describe the plant composition (e.g., density, cover, abundance) within impacted habitat, and a list of individual plants impacted separated by vegetation class (i.e., groundcover, forb, subshrub, shrub, tree).

Recommendation #3: Formulation of future mitigation measures is considered deferred mitigation under CEQA (CEQA Guidelines, § 15126.4). CDFW recommends preparing species-specific avoidance measures prior to finalizing the environmental document. If the Project would require on- or off-site mitigation, species-specific plans should be disclosed, documented, and completed prior to preparation of a final environmental document. If this is the case, CDFW recommends including a more species specific on- or off-site mitigation plan in the DEIR and recirculating the environmental document so CDFW may provide more meaningful comments on the adequacy of the proposed on or off-site mitigation plan (CEQA Guidelines, § 15088.5). Plans for on or off-site mitigation should still be fully developed and executed prior to Project construction and activities.

Comment #4: Nesting Birds

Issue: CDFW is concerned that the language used in MM-BIO-3 is not adequate to fully avoid impacts to nesting birds. The term “if” could suggest that Project may not consider fully avoiding impacts to nesting birds first but rather default to mitigating for impacts.

Specific impacts: Increased nesting mortality due to nest abandonment or decreased feeding frequency as a result of Project construction and activities.

Why impacts would occur: Construction during the breeding season for nesting birds could result in the loss of fertile eggs or nestlings or otherwise lead to nest abandonment. Impacts could result from noise disturbances, increased human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 12 of 23

by heavy equipment.

Evidence impacts would be significant: Nests of all native bird species are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Furthermore, reductions in the number of special status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. CDFW also considers impacts to California Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends modifying MM-BIO-3 by removing the language with strikethrough and including the underlined language to reduce Project impacts to less than significant:

Mitigation Measure #1:

MM-BIO-3: Nesting Bird Surveys

Project construction, equipment staging, and ground disturbance activities, and vegetation removal will be completed outside the avian breeding season. The City will not remove or otherwise disturb vegetation on the project site from January 1 to September 15, to avoid impacts to breeding/nesting birds. If project-related activities are scheduled during the nesting season, the Lead Agency shall coordinate with CDFW, prior to impacts, to determine appropriate mitigation measures.

~~If ground disturbance activities (including clearing and grubbing) are scheduled to occur between February 1 and August 31, a qualified biologist will conduct a nesting bird survey within 72 hours of ground disturbance activities. The survey shall consist of full coverage of the proposed Project footprint and up to a 300-foot buffer (500 feet for suitable raptor habitat). The specific survey buffer will be determined in the field by the Project biologist and will take into account the species nesting in the area, the habitat present, and where access is permitted. If no active nests are found, no additional measures are required.~~

~~If active nests are found, the nest locations shall be mapped by the qualified biologist. The nesting bird species will be documented and, to the degree feasible, the nesting stage (e.g., incubation of eggs, feeding of young, near fledging) will be determined. The biologist shall establish a no-disturbance buffer around each active nest. The buffer will be determined by the qualified biologist based on the biology of the species present and surrounding habitat (typically a starting point of 300 feet for most birds and 500 feet for raptors, but may be reduced as approved by the biologist). No construction or ground disturbance activities shall be conducted within the buffer until the biologist has determined the nest is no longer active (i.e., no eggs or young) and has informed the construction supervisor that activities may resume.~~

Comment #5: Impacts to Bats

Issue: The Project site is less than 75 feet from the Santa Ana Freeway (Interstate 5) and adjacent to a series of earthen detention basins that are bordering the Rio Hondo River. The DEIR does not provide information about potential effects to bats and roosts.

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 13 of 23

Specific Impacts: Direct impacts include removal of trees, vegetation, and/or structures that may provide roosting habitat and therefore has the potential for the direct loss of bats. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, grading, excavating), and vibrations caused by heavy equipment.

Why impacts would occur: The Project site is adjacent to potential bat roosting and aquatic foraging habitat. In urbanized areas, bats use trees and man-made structures for daytime and nighttime roosts (Avila-Flores and Fenton 2005; Oprea et al. 2009; Remington and Cooper 2014). Bats can fit into very small seams, as small as a ¼ inch. Trees and crevices in buildings in and adjacent to the Project site could provide roosting habitat for bats.

The Project site is adjacent to a bridge. Bridges frequently serve to replace natural roosts in anthropogenically altered landscapes. Concrete bridges have structural features that offer suitable analogs to natural roosts, and the large mass of concrete bridges offer the kind of thermal buffering that bats require. Crevice roosts, suitable for day-roosting maternity colonies, are most frequently found in expansion and hinge joints, in abutment crevices, and in spaces formed at the junction between old and new portions of a widened bridge. Bridges can also provide day roosts for cavity dwelling species. Night roosts are most commonly found in concrete girder bridges. Because bats forage most frequently in association with water, and the majority of bridges cross water features (e.g., Rio Hondo River), bridges have the distinct advantage of offering proximity to foraging areas (Johnston et al. 2004).

Modifications to roost sites can have significant impacts on the bats' usability of the roost and can impact the bats' fitness and survivability (Johnston et al. 2004). Extra noise and vibration can lead to the disturbance of roosting bats which may have a negative impact on the animals. Human disturbance can also lead to a change in humidity, temperatures, or the approach to a roost that could force the animals to change their mode of egress and/or ingress to a roost. Although temporary, such disturbance can lead to the abandonment of a maternity roost (Johnston et al. 2004).

Evidence impacts would be significant: Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Several bat species are considered California Species of Special Concern and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends a qualified bat specialist conduct bat surveys within the Project site (plus a 100-foot buffer as access allows) and the length of the Santa Ana Freeway parallel to the Project site in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity colonies, composed of adult females and their young, typically occur from spring through fall.

A discussion of survey results, including negative findings, should be provided in Chapter 3.3 of

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 14 of 23

the DEIR and a complete survey report provided as an appendix to the DEIR. Depending on survey results (e.g., roosts are detected, bats observed), please discuss potentially significant effects of the proposed Project on the bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125).

Mitigation Measure #2: CDFW recommends the City include the following mitigation measure to reduce Project impacts to less than significant:

“If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees, trees shall be pushed down using heavy machinery rather than felling it with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees shall be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape.”

Mitigation Measure #3: If maternity roosts are found, CDFW recommends the City include the following two mitigation measures to reduce Project impacts to less than significant:

- a) “If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost (March 1 to September 30).”
- b) “If maternity roosts are found and trees must be removed during the maternity season, a qualified bat specialist shall conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology shall be used to maximize detection of bats. Each tree identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roosting bats more precisely. If maternity roosts are detected, trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of or directly under or adjacent to an active roost and work shall not occur between 30 minutes before sunset and 30 minutes after sunrise.”

Additional Comments

Landscaping. The Project would involve landscaping. Habitat loss and invasive plants are a leading cause of native biodiversity loss. Invasive plant species spread quickly and can displace native plants, prevent native plant growth, and create monocultures. The City should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas that are adjacent and/or near native habitat areas. CDFW strongly recommends using native, locally appropriate plant species and drought tolerant, lawn grass alternatives to reduce water consumption. Landscaping should maximize infiltration of groundwater and minimize use of pesticides and fertilizer that may be transported to the detention basins or Rio Hondo River.

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 15 of 23

Information on alternatives for invasive, non-native, or landscaping plants may be found on the [California Invasive Plant Council's, Don't Plant a Pest](#) webpage. The [Audubon Society's Native Plants Database](#) is a resource to identify native plants and trees that will attract and benefit birds. Birds may help to control and reduce insects, reducing the need for pesticides. The [California Native Plant Society's Gardening](#) and [Xerces Society's Pollinator-Friendly Native Plant Lists](#) webpage has information on native plant species that invite insects and pollinators. Pollinators are critical components of our environment and essential to our food security. Insects – and primarily bees – provide the indispensable service of pollination to more than 85% of flowering plants (Ollerton et al. 2011).

General Comments

- 1) California Endangered Species Act (CESA). CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed rare plant species that results from the Project is prohibited, except as authorized by state law (Fish and G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Consequently, if the Project, Project construction, or any Project-related activity for the duration of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.
- 2) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project related direct or indirect impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code section 65967, the City of Commerce must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves. Mitigation banking inquiries may be directed to the CDFW's South Coast Region Banking Coordinator, Lisa Gymer, at (858) 627-3997 or via email at Lisa.Gymer@wildlife.ca.gov.
- 3) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration,

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 16 of 23

the DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

Per CEQA Guidelines Section 21081.6(a)(1), CDFW has provided the City of Commerce with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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 City of Commerce and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist the City of Commerce in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Commerce has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist, at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

B6E58CFE24724F5...

Erinn Wilson
Environmental Program Manager I

ec: CDFW

Victoria Tang – Los Alamitos – Victoria.Tang@Wildlife.ca.gov
Baron Barrera – Los Alamitos – Baron.Barrera@Wildlife.ca.gov
Susan Howell – San Diego – Susan.Howell@Wildlife.ca.gov
CEQA Program Coordinator - Sacramento – CEQA@Wildlife.ca.gov

State Clearinghouse – state.clearinghouse@opr.ca.gov

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 17 of 23

References:

- Avila-Flores, R., and B.M. Fenton. 2005. Use of Spatial features by Foraging Insectivorous Bats in a Large Urban Landscape. *Journal of Mammalogy* 86(6):1193-1204.
- Johnston, D., Tatarian, G., Pierson, E. 2004. California Bat Mitigation Techniques, Solutions, and Effectiveness. [Internet]. [cited 2020 June 16]. Available from:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=10334>
- Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.
- Ollerton J., Winfree, R., and S. Tarrant. 2011. How many flowering plants are pollinated by animals. *Oikos* 120:321-326.
- Oprea, M., Mendes, P., Vieira, T.B., Ditchfield, A.D. 2009. Do Wooded Streets Provide Connectivity for Bats in an Urban Landscape? *Biodiversity Conservation* 18:2361-2371.
- Remington, S and D.S. Cooper. 2014. Bat Survey of Griffith Park, Los Angeles, California. *The Southwestern Naturalist* 59(4):473-479.



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. CDFW recommends the City update recommended language to reflect specific Project impacts to rare plants (pending additional rare plant surveys) and provide species-specific measures.

Biological Resources (BIO)			
	Mitigation Measure (MM)	Timing	Responsible Party
MM-BIO-1- Impacts to Biological Resources – Biological Assessment	A biological assessment shall be performed as described on Pages 4 and 5 . A report of assessment results shall be prepared.	Prior to Project construction and activities	City of Commerce (City)/Comstock Realty Partners, LLC. (Comstock)
MM-BIO-2- Impacts to Rare Plants – Biological Assessment	A qualified biologist familiar with southern California plants shall perform at least two species-specific surveys at the peak and near end of the flowering season for smooth tarplant (<i>Centromadia pungens</i> ssp. <i>laevis</i>). Surveys shall be conducted in suitable habitat within the proposed Project footprint, specifically, the vacant lot. Focused surveys shall be conducted according to CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities .	Prior to Project construction and activities	City/Comstock
MM-BIO-3- Impacts to Rare Plants – Avoidance	If rare plants are found, the Project shall avoid impacts by preserving each population. The total preserved area shall include the core population, habitat, an additional buffer to adequately protect the core population and habitat while allowing for the population to spread outwards. To the extent feasible, the areas between preserved locations shall also be preserved in order to establish connectivity between adjacent populations.	Prior to/During/After Project construction and activities	City/Comstock/ Construction crew

Mr. Daniel Hernandez
 City of Commerce
 August 31, 2020
 Page 19 of 23

	<p>Before Project construction and activities, a qualified botanist familiar with southern California rare plants shall map preserved areas and document baseline population metrics (i.e., plant abundance, density). The City of Commerce and/or Comstock Realty Partners, LLC. shall work with a qualified botanist to develop measures to avoid impacts to preserved areas during the Project. The City of Commerce and/or Comstock Realty Partners shall also work with a qualified botanist to develop a permanent Fencing Plan to prevent unauthorized access by pedestrians and vehicles into sensitive areas while allowing for safe wildlife passage. A Fencing Plan shall provide monitoring measures to ensure protective measures are effective and there is no loss of rare plants.</p> <p>Prior to Project construction and activities, the perimeter of preserved areas shall be adequately demarcated with temporary fencing. Temporary fences shall be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Activities shall remain within the Project footprint (i.e. outside the fencing) and fencing shall be maintained for the duration of the Project. Staging and other material piling shall be relocated away from preserved areas. All workers shall be advised of the intent of the protection measures prior to the start of project construction and activities.</p> <p>Temporary fencing shall be removed in phases depending on construction progress, and permanent fencing shall be constructed in its place to permanently preserve rare plants and habitat.</p>		
<p>MM-BIO-4- Impacts to Rare Plants – On-site mitigation</p>	<p>If avoidance is not feasible as described above, the Project shall compensate the loss of the species and associated habitat through on-site restoration, creation, and preservation of a minimum of an equal amount of plants and habitat acreage of what is being impacted by the Project at no less than 7:1 for plants with a California Rare Plant Rank of 2 and 10:1 for CRPR 1 plants.</p>	<p>Prior to/After Project construction and activities</p>	<p>City/Comstock</p>

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 20 of 23

	<p>The preserved portion of the site shall be designated as open space preserve and placed within a protective easement for conservation purposes, such as a conservation easement. The City of Commerce and/or Comstock Realty Partners, LLC. shall work with a qualified botanist familiar with southern California rare plants to identify an area suitable for on-site mitigation. The City of Commerce and/or Comstock Realty Partners shall also work with a qualified botanist to develop a Fencing Plan to prevent unauthorized access by pedestrians and vehicles into sensitive areas while allowing for safe wildlife passage. A Fencing Plan shall provide monitoring measures to ensure protective measures are effective and there is no loss of rare plants.</p> <p>An on-site restoration plan shall be prepared by a qualified botanist and/or restoration specialist and include the following information: a) the specific location of restoration sites and assessment of reference sites; b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; c) a schematic depicting the mitigation area; d) a local seed and cuttings and planting schedule; e) a description of the irrigation methodology; f) measures to control exotic vegetation on site; g) specific success criteria; h) a detailed monitoring program; and i) contingency measures should the success criteria and providing for conservation of the mitigation on site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought.</p> <p>The Project shall apply a minimum success criterion of 80% survival of all plants the first year, and 100% survival thereafter. Proposed plantings shall replace these species at the existing densities with no more than a 10% cover, diversity, abundance, or density deviation. Prior to the revegetation areas being determined successful, they shall be entirely without supplemental irrigation, weeding, or plant replacement, for a minimum of 3 years (as</p>		
--	---	--	--

Mr. Daniel Hernandez
 City of Commerce
 August 31, 2020
 Page 21 of 23

	<p>weeding and plant replacement are considered site establishment). Herbaceous invasive species shall not exceed 5% cover (zero % cover for any species listed on the California Invasive Plant Council's invasive plant list, including the watch list). If the survival, density, and cover requirements have not been met, the City of Commerce and/or Comstock Realty Partners will be responsible for replacement planting to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for 7 years after planting, with 3 additional years of no irrigation, weeding, or further replacement planting.</p> <p>A plan for on-site mitigation shall be fully developed and executed prior to Project construction.</p>		
MM-BIO-5- Impacts to Rare Plants – Off-site mitigation	<p>If the Project cannot be modified to avoid impacts to rare plants and on-site mitigation is not feasible, then off-site land with similar habitat in the range of the species shall be identified and purchased at no less than 7:1 of the acreage of what is being impacted by the Project. The City of Commerce/Comstock Realty Partners, LLC. shall work with a qualified botanist to identify the appropriate off-site mitigation land, and in coordination with the California Department of Fish and Wildlife. The purchased lands shall be designated as an open space preserve and placed within a protective easement for conservation purposes, such as a conservation easement. An off-site mitigation plan shall be developed per specifics described above and the same minimum success shall be applied.</p> <p>A plan for off-site mitigation shall be fully developed and executed prior to Project construction.</p>	Prior to/After Project construction and activities	City/Comstock
MM-BIO-6- Impacts to Nesting Birds	<p>Project construction, equipment staging, ground disturbance activities, and vegetation removal will be completed outside the avian breeding season. The City will not remove or otherwise disturb vegetation on the project site from January 1 to September 15, to avoid impacts to breeding/nesting birds. If project-related</p>	Prior to Project construction and activities	City/Comstock

Mr. Daniel Hernandez
 City of Commerce
 August 31, 2020
 Page 22 of 23

	activities are scheduled during the nesting season, the City shall coordinate with CDFW, prior to impacts, to determine appropriate mitigation measures.		
MM-BIO-7- Impacts to Bats – Bat survey	<p>A qualified bat specialist shall conduct bat surveys within the Project site (plus a 100-foot buffer as access allows) and the length of the Santa Ana Freeway parallel to the Project site in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be used to maximize detection of bats.</p> <p>A discussion of survey results, including negative findings, shall be provided in Chapter 3.3 of the DEIR and a complete survey report provided as an appendix to the DEIR.</p>	Prior to Project construction and activities	City/Comstock
MM-BIO-8- Impacts to Bats – Tree removal	If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees, trees shall be pushed down using heavy machinery rather than felling it with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees shall be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape.	During Project construction and activities	City/Comstock/ Construction crew
MM-BIO-9- Impacts to Bats – Protect maternity roosts	If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost (March 1 to September 30).	Prior to Project construction and activities	City/Comstock

Mr. Daniel Hernandez
City of Commerce
August 31, 2020
Page 23 of 23

MM-BIO-10- Impacts to Bats – Protect maternity roosts	If maternity roosts are found and trees must be removed during the maternity season, a qualified bat specialist shall conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology shall be used to maximize detection of bats. Each tree identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roosting bats more precisely. If maternity roosts are detected, trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of or directly under or adjacent to an active roost and work shall not occur between 30 minutes before sunset and 30 minutes after sunrise.	During Project construction and activities	City/Comstock/ Construction crew
--	--	---	-------------------------------------