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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

February 8, 2021

**February 8, 2021**

Elizabeth Sheerer-Nguyen  
 City of San Diego Development Services Center  
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**STATE CLEARINGHOUSE**

**Subject: City of San Diego Trails at Carmel Mountain Ranch Project #652519  
 (PROJECT) Draft Environmental Impact Report (DEIR), SCH #2020039006**

Dear Ms. Sheerer-Nguyen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from The City of San Diego (CITY) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation of the DEIR on April 1, 2020.

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

### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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<sup>1</sup> 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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CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City participates in the NCCP program by implementing its approved City Multiple Species Conservation Program (MSCP) through implementation of the City of San Diego MSCP Subarea Plan (SAP). The Multi-Habitat Preserve Area (MHPA) is the area from which a final hard-line reserve becomes established to adequately conserve covered species pursuant to the SAP.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** NUWI2-CMR, LLC

**Objective:** The objective of the Project is a General Plan Amendment is to allow redevelopment of the existing 18-hole golf course at Carmel Mountain Ranch to 1,200 multi-family residential units with a mix of open space and recreational areas. The Project would also construct various site improvements, including associated hardscape, landscaping, infrastructure (e.g., off-site utility connections of water, sewer), storm drain, and access. Various recreational amenities would be provided, as well as a publicly accessible multi-use trail system that would circulate throughout the Project site. Most of the trail system will be comprised of decomposed granite or compacted earth trails, with some concrete trails that would be repurposed from the previous golf cart path. There are five pedestrian bridges that cross over Chicarita Creek and other wetland areas; unspecified repairs may be conducted on one of the bridges, and any new bridge footings are proposed to span the creek.

**Location:** The Trails at Carmel Mountain Ranch is located at 14050 Carmel Ridge Road in the northeastern part of the City. The Project area is directly east of Interstate 15 and lies north of Ted Williams Parkway and south of Carmel Mountain Road. The Project is located within the Northern Area of the SAP. MHPA is located approximately 1,000 feet to the south of the Project, and to the east of Interstate (I)-15.

**Biological Setting:** According to the DEIR, a total of 13 vegetation communities were identified on the Project site: coastal sage scrub, coastal sage scrub (disturbed), coastal sage scrub (*Baccharis*-dominated), coastal and valley freshwater marsh, disturbed wetland, eucalyptus woodland, southern arroyo willow riparian forest, southern coast live oak riparian forest, southern cottonwood–willow riparian forest, southern sycamore–alder riparian woodland, southern willow scrub (disturbed), southern willow scrub, and undifferentiated open woodland.

Special status wildlife species identified on site include coastal California gnatcatcher (*Poliioptila californica californica*; Federal Endangered Species Act (FESA)-listed threatened, MCSP Covered Species). Special status species with high to moderate potential to occur include least Bell's vireo (*Vireo bellii pusillus*; (CESA- and FESA-listed, MSCP Covered Species), Cooper's hawk (*Accipiter cooperii*; MSCP Covered Species), yellow warbler (*Setophaga petechia*), San Diego desert woodrat (*Neotoma lepida intermedia*), orange-throated whiptail (*Aspidoscelis hyperythra*; MSCP Covered Species), San Diego or coast horned lizard (*Phrynosoma blainvillii*; California Species of Special Concern (SSC), MSCP Covered Species), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*; California Species of Special Concern (SSC)). Rare plants with potential to be found on site include Coulter's saltbush (*Atriplex coulteri*; California Native Plant Society (CNPS) Rare Plant Rank 1B.2), variegated dudleya (*Dudleya variegata*; CNPS Rare Plant Rank 1B.2, MSCP Narrow Endemic Species) and San Diego barrel cactus (*Ferocactus viridescens*; CNPS Rare Plant Rank 2B.1, MSCP Covered Species).

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California adolphia (*Adolphia californica*; CNPS Rare Plant Rank 2B.1), also has a high potential to be on site within native habitat areas, due to previously identified occurrences on site.

The Project does not propose direct impacts to MCSP-designated sensitive habitats, including wetlands. Golf course greens and other temporary project impact areas will be revegetated; no compensatory mitigation is proposed.

**Timeframe:** A timeframe was not provided for the Project.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. 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 (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

### **I. MSCP Covered Species**

#### **COMMENT #1:**

#### **Lack of Inclusion of Least Bell's Vireo Measure in Mitigation and Monitoring and Reporting Program (MMRP).**

#### **Section: 5.4 Biological Resources, 10 MMRP, Page: 5.4-23**

**Issue:** The DEIR identifies a mitigation measure, *Biological Resources – least Bell's vireo (State Endangered/Federally Protected)*, to protect least Bell's vireo from indirect impacts resulting from construction. Part of the measure was not included in Section 10 of the DEIR (MMRP) or Executive Summary.

**Specific impacts:** The DEIR identifies a moderate potential for least Bell's vireo to be present in riparian habitat adjacent to Project impacts, and identifies a detailed measure in the impact analysis, but fails to include the measure in the MMRP. The MMRP is the primary document which will be used during construction to confirm compliance with Project mitigation measures.

**Why impact would occur:** Without inclusion of the appropriate mitigation measure in the MMRP, indirect impacts to least Bell's vireo may occur.

**Evidence impact would be significant:** As identified in Section 5.4.3 of the DEIR, impacts to FESA-listed, CESA-listed, and MSCP-covered species would be considered significant without mitigation. The DEIR does not include the full mitigation measure identified in the impact analysis in the MMRP. The MMRP describes all the required measures for the Project and identifies the responsible party for compliance. Without inclusion of the measure in the MMRP, the measure may not be implemented during construction. Potentially significant impacts may occur if the full mitigation measure is not implemented during construction.

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## Recommended Potentially Feasible Mitigation Measure(s)

### Mitigation Measure # CDFW-BIO-1:

Please include the full mitigation measure described in Section 5.4 in the MMRP and Executive Summary.

**To reduce impacts to less than significant:** Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met to the satisfaction of the City Manager:

A qualified biologist (possessing a valid endangered species act section 10(a)(1)(a) recovery permit) shall survey those wetland areas that would be subject to construction noise levels exceeding 60 decibels [dBA] hourly average for the presence of the least Bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of construction.

- a. If the least Bell's vireo is present, then the following conditions must be met:
  - I. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
  - II. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dBA hourly average at the edge of occupied least Bell's vireo habitat. An analysis showing that noise generated by construction activities would not exceed 60 dBA hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of any of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
  - III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dBA) hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dBA hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16). Construction noise monitoring shall continue to be monitored at least twice weekly on

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varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- b. If least Bell's vireo is not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:
  - I. If this evidence indicates the potential is high for least bell's vireo to be present based on historical records or site conditions, then condition a. III shall be adhered to as specified above.
  - II. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

## II. Project Description and Related Impact Shortcomings

### Potential Impacts to Sensitive Habitat

#### COMMENT #2:

**Section: DEIR 3-Project Description, Figure 5.4-1E, 5.4.3 Impact Analysis, Biological Technical Report (BTR) Attachment E Photo 9, Page: 3-7, 5.4-17, 5.4-25**

**Issue:** The DEIR notes that bridge repair would occur on one of the bridges, but details of this repair or new construction were not included in sufficient detail in the DEIR to determine if substantial adverse impacts to the bed, bank, and channel of Chicarita Creek would be avoided. This and other building-related encroachments into MSCP-protected native habitat may require a Lake or Streambed Alteration (LSA) Agreement and/or additional mitigation.

**Specific impact:** The Project DEIR does not propose direct impacts to protected/covered native habitat, including wetlands; however, some Project features, such as bridge repair and maintenance/ construction of one of the building units may impact and the bed, bank, and channel as regulated under Section 1600 *et seq* of the Fish and Game Code. The Draft EIR does not propose Notification to CDFW for potential streambed impacts, or other MSCP-prescribed avoidance, minimization, and mitigation measures for these potentially significant impacts.

**Why impact would occur:** The DEIR states,

No wetland impacts are anticipated from the five pedestrian bridges/cart paths that cross over Chicarita Creek. One of the bridges, located in the southern portion of Chicarita Creek, has partially collapsed. The collapsed bridge segments in Chicarita Creek will remain undisturbed. Repair, removal, and replacement of damaged portions of the bridge will occur entirely outside of jurisdictional resources to ensure no impacts to the creek. Any new

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bridge construction would span the creek with bridge footings placed outside of the creek to avoid impacts to jurisdictional resources. Thus, the project proposes no disturbance to jurisdictional resources regulated by the ACOE, RWQCB, CDFW or City.

Although the Project proposes to replace the bridge outside of wetland habitats and the creek, impacts to adjacent native habitat from bridge repair may occur depending on the location and type of repair. The specific location of the bridge repair work was not identified in the DEIR or BTR. The BTR Attachment E: Jurisdictional Delineation Report Photo 9 depicts a section of wetland surrounding a section of pedestrian bridge, with native upland habitat adjacent. It is unclear if all native habitat within the riparian buffer would be avoided by bridge/path maintenance and repair. If native habitat may be impacted by these activities, it should be identified as part of the limits of disturbance.

Also, Figure 5.4-1E of the DEIR shows the limits of disturbance of Unit 2, Lot 1 within 3 feet of the creek. It is unclear from the DEIR, how the Project proposes to avoid this resource with the limits of disturbance within 3 feet.

**Evidence impact would be significant:** As noted in Section 5.4.3 of the DEIR, impacts to native habitats would be significant without mitigation. Impacts to native habitat may potentially occur from path and bridge repair, or other Project features. Analysis and potential mitigation were not provided for these impacts.

CDFW requires providing written Notification to the Department pursuant to Section 1600 *et seq.* of the Fish and Game Code for any activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any stream. Based on this notification and other information, the Department determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. Appropriate avoidance, minimization, or mitigation measures will be determined through the LSAA process and may include but are not limited to silt fencing, work period restrictions, and other species-specific measures.

### **Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

#### **Mitigation Measure # CDFW-BIO-2a:**

**To reduce impacts to less than significant:** Specific detail on bridge repair shall be provided in the Final EIR. Bridges that require repair and/or replacement, as well as the resulting potential impact areas, shall be identified. Sensitive habitat impacts on shall be mapped and the figures provided in the Final EIR.

#### **Mitigation Measure # CDFW-BIO-2b**

**To reduce impacts to less than significant:** If the specific detail on bridge repair provided in the Final EIR reveals that project activities may significantly alter the bed, bank, or channel of Chicarita Creek, a Notification shall be submitted to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. CDFW shall be consulted prior to submittal if it is unclear as to whether substantial impacts to LSA-jurisdictional resources may occur.

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### **Mitigation Measure # CDFW-BIO-2c**

**To reduce impacts to less than significant:** If the specific detail on bridge repair provided in the Final EIR reveals that project activities may impact any MSCP-covered habitats, impacts will be mitigated according to the City of San Diego Biology Guidelines.

### **III. Environmental Setting and Related Impact Shortcoming**

#### **Potential Impacts from BMZ 2 Thinning to California adolphia and Other Special Status Species**

##### **COMMENT #3:**

##### **Section: 5.4, 5.4-1B Page:5.4-9**

**Issue:** Brush Management Zone (BMZ) 2 is designated within wetland and riparian buffers and open space areas, but focused rare plant surveys were not conducted in these areas, and rare plants may be present. The mitigation measures provided do not provide sufficient avoidance of sensitive species that have the potential to be present during brush management activities.

**Specific impacts:** The DEIR states, “[t]he project footprint will avoid all areas of natural habitat and sensitive vegetation communities where the species listed below could occur. Therefore, focused rare plant surveys were not conducted.” The Project proposes to avoid direct construction disturbance within sensitive vegetation communities, including wetland buffer areas, but also proposes BMZ 2 and potential bridge/path maintenance within these areas.

Although BMZ 2 brush thinning is impact neutral for mitigation purposes, brush management still could impact sensitive native plant species. Since focused plant surveys have not been conducted, and there are previous occurrences of California adolphia on site (California Natural Diversity Database (CNDDDB) 2021), rare plants have the potential to be present. Since BMZ 2 thinning is planned within these natural habitat areas, and bridge repair may occur within these areas, sensitive plant species may be impacted by these aspects of the Project and have not been identified in the DEIR and sufficiently addressed by the Project mitigation measures. Furthermore, in Figure 5.4-1B, the BMZ 2 thinning zone is identified as 148-foot wide within native habitats until the intersection with the riparian zone, when the City’s Landscape Regulations prescribes 100 feet, as quoted below.

**Why impact would occur:** CNDDDB identifies California adolphia within the Project boundaries, and San Diego barrel cactus and variegated dudleya adjacent to the site (2021). Focused rare plant surveys were not conducted, under the assumption that natural habitat areas would not be directly impacted by the Project. However, the fuel modification zones may directly impact natural habitat areas or sensitive species because brush management activities are proposed within environmentally sensitive lands and are proposed at a distance greater than 100 feet.

Section 142.0412 Brush Management of Article 2, Division 4 of the City’s Land Development Code discusses Landscape Regulations and states, “[b]rush management activity is permitted within *environmentally sensitive lands* (except for *wetlands*) that are located within 100 feet of an existing *structure* in accordance with Section 143.0110(c)(7).” Additionally, Section 142.0412(d) states, “[b]rush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented

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to the satisfaction of the City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan."

**Evidence impact would be significant:** The City of San Diego Land Development Manual Biology Guidelines states on page 73, "[b]rush management Zone 2 thinning activities, while having the potential to adversely affect biological resources, are not considered potentially significant inside the MHPA or, to the extent that non-covered species are not impacted, outside the MHPA, because of the implementation of the MSCP." Brush management Zone 2 thinning outside the MHPA which affects non-covered species is potentially significant. California adolphina is a sensitive species, but is not a covered species, and therefore impacts are potentially significant.

#### **Recommended Potentially Feasible Recommendations and Mitigation Measure(s)**

**Mitigation Measure # CDFW-BIO-3a:** Brush management activities in environmentally sensitive lands shall occur outside of the bird breeding season (March 1 through August 15), and should occur between September-January.

#### **Mitigation Measure #CDFW-BIO-3b:**

**To reduce impacts to less than significant:** Prior to BMZ 2 thinning and bridge repair and maintenance, a qualified Biologist shall survey native habitat areas and flag occurrences of sensitive plant species, including but not limited to, any occurrences of Coulter's saltbush, variegated dudleya, California adolphina, and San Diego barrel cactus. Flagged individuals shall not be removed during BMZ 2 thinning or impacted by pedestrian bridge repair or path maintenance. The qualified Biologist shall be on site during vegetation removal activities to ensure sensitive plants are not impacted.

#### **IV. Mitigation Measures and Related Impact Shortcoming**

##### **Potential Impacts to Nesting Raptors**

##### **COMMENT #4:**

##### **Section: Executive Summary, Page: ES-10-12**

**Issue:** The DEIR identifies impacts to MSCP covered species, including Cooper's hawk, but does not propose sufficient avoidance and mitigation measures to address the impact.

**Specific impacts:** Impact Bio-1 identifies impacts to three MSCP-covered species: least Bell's vireo, coastal California gnatcatcher, and Cooper's hawk, as well as yellow warbler, which is not MSCP covered, and identifies their associated breeding seasons — March 1 through August 15 for California gnatcatcher, January 15 through August 31 for Cooper's hawk, and February 1 through September 15 for other breeding bird species. The DEIR notes that these impacts would be potentially significant, but then proposes to only conduct breeding season surveys and provide avoidance measures from February 1 to September 15 (Avian Protection Requirements Mitigation Measure 1E). This does not include the full breeding season for Cooper's hawk, as it is discussed in the DEIR.

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Avian Protection Requirements Mitigation Measure 1E also implies that removal of habitat that supports active nests in the proposed area of disturbance is permitted outside of the breeding season, when removal of habitat that supports an active nest is prohibited.

**Why impact would occur:** Cooper's hawk may begin breeding in January, therefore there may already be an active nest by February 1, and the earliest egg dates can occur by the end of January (Unitt 2003). Therefore, Cooper's hawks and other raptors could be impacted if work commences in January and pre-construction surveys are not conducted until February. Furthermore, removal of active raptor nests is prohibited under Fish and Game Code.

**Evidence impact would be significant:** Fish and Game Code Section 3503 *et seq*, and the City's SAP provide protection for nesting birds, and removal of habitat that supports an active raptor nest is prohibited regardless of the proposed breeding season. Potential impacts to nesting raptors would be in violation of the fish and game code and would be considered significant.

### **Recommended Potentially Feasible Mitigation Measure(s)**

#### **Mitigation Measure #CDFW-BIO-4:**

Please revise the first sentence of Mitigation Measure MM-BIO-1(E) to include the full breeding season for Cooper's hawks and other raptors, and to state that removal of active nests is prohibited, but removal of potential habitat is permitted outside of the breeding season.

#### **To reduce impacts to less than significant:**

To avoid any direct impacts to the least Bell's vireo, Cooper Hawk, yellow warbler, and other nesting bird species, removal of potential nesting habitat, including native habitats and Eucalyptus trees in the proposed area of disturbance, should occur outside of the breeding season for these species (January 15 to September 15).

### **Revegetation Plan and Invasive Species Measure**

#### **COMMENT #5:**

#### **Section:3-Project Description, Page:3-7**

**Issue:** The DEIR discusses revegetation areas but does not provide a proposed revegetation/landscaping plan. Additionally, the DEIR neither includes a mitigation measure to preclude the use of non-native species in the planting palette, nor a measure to ensure that all material used in the revegetation/landscaping plan is free of invasive pest species, such as Argentine ants.

**Specific impacts:** The DEIR proposes to revegetate former golf course fairways and areas disturbed by the proposed development but does not provide a revegetation/landscaping plan or mitigation measures to ensure that this is implemented in a manner which minimizes impacts to native habitat or discourages the spread of non-native/invasive species. Without this plan, CDFW cannot ascertain if impacts are less than significant without mitigation.

Revegetated areas are directly adjacent to native habitat in open space areas and are within 1,000 feet of the MHPA. The impact analysis in Biological Resources Section 5.4 states,

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“[n]o long-term direct or indirect impacts associated with invasive species would occur, because the project would implement a landscaping plan that includes native plantings within the wetland buffer areas on the project site. In addition, the landscape plan for the proposed project precludes the use of non-native invasive plant species.”

The proposed landscaping plan was not provided with the DEIR for public review, and without review of this plan CDFW cannot confirm that the measures provided in the plan are sufficient to avoid all impacts to native plant communities.

Additionally, without review of a revegetation/landscaping plan, indirect impacts to sensitive wildlife species cannot be assessed. For example, the DEIR does not discuss potential impacts from exotic species (i.e., Argentine ants) on San Diego horned lizard (also known as Blainville’s horned lizard) nor does it propose avoidance and minimization measures to reduce potential impacts to this species.

**Why impact would occur:** The San Diego Land Development Manual – Biology Guidelines states, “... where revegetation or restoration is proposed, a revegetation/restoration plan shall be prepared in accordance with Attachment III, General Outline for Conceptual Revegetation/Restoration Plans.”

Although the Project is not directly adjacent to the MHPA, it contains environmentally sensitive lands within open space areas, and those areas are within 1,000 feet of the MHPA. Many invasive plant species have wind borne seeds, and establishment could impact native habitats and sensitive species. Exotic plant species not to be used include those species listed on the California Invasive Plant Council’s (Cal-IPC) Invasive Plant Inventory, which is available online at <http://www.cal-ipc.org>.

Also, the DEIR does not provide a measure to inspect all materials used in revegetation for invasive pest species such as Argentine ants. Argentine ants displace native ant species that are food for San Diego horned lizard, which is an SSC and MSCP-covered species. Habitat destruction from human development and agriculture, and the spread of non-native Argentine ants that displace the native food source, has threatened and eliminated Blainville’s horned lizard from many areas (Jennings 1987). Indirect impacts from the Project, including the introduction of Argentine ants could negatively affect the San Diego horned lizard.

**Evidence impact would be significant:** Although the DEIR states that the landscape plan for the proposed Project precludes the use of non-native invasive plant species, the plan was not provided for review with the DEIR. Without enforceable Mitigation Measures provided in the DEIR, CDFW is not able to concur with the conclusion that no impacts have the potential to occur. Section 15126.4 (2) of the CEQA guidelines states, “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.” Relying on a Revegetation Plan that was not provided may be considered deferred mitigation and is not sufficient to ensure all impacts from invasive species are avoided.

### **Recommended Potentially Feasible Recommendation and Mitigation Measure(s)**

The revegetation/landscaping plan should be made available with the final environmental document. CDFW recommends that sensitive plant species be included in the planting palette for areas that will not be disturbed by future brush thinning. Additionally, a measure to inspect all plant materials for invasive species and prohibit the use of Cal-IPC high rated invasive species anywhere within the development or open space areas, should be included in the Final EIR.

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**To reduce impacts to less than significant:**

**Mitigation Measure #CDFW-BIO-5a:** Prior to offloading nursery products from delivery truck and prior to installation of common landscape improvements, container plants shall be inspected by the project biologist for the presence of disease, weeds, and pests, including Argentine ants. Plants with pests, weeds, or diseases will be rejected. Watering restrictions shall be implemented through the Homeowners Association or similar organization in areas that are adjacent to native habitat areas to reduce the spread of Argentine ants.

**Mitigation Measure #CDFW-BIO-5b:** The planting palette for the Project shall follow Cal-IPC recommendations, and will preclude the use of non-native invasive species throughout all revegetated areas of the Project.

**Recommendation Measure #CDFW-REC-5:** Please include Coulter's saltbush, variegated dudleya, California adolphia, and San Diego barrel cactus in the planting palette within appropriate habitat in open space areas that are not subject to BMZ activities.

**Editorial Comments and Suggestions**

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:

[http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

The types of information reported to CNDDDB can be found at the following link:

[http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

**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**

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Elyse Levy, Senior Environmental Scientist, at [Elyse.Levy@wildlife.ca.gov](mailto:Elyse.Levy@wildlife.ca.gov).

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Sincerely,

DocuSigned by:

  
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David A. Mayer  
Environmental Program Manager I  
South Coast Region

**Attachments:** Attachment A: Recommendations and Mitigation Measures

ec: CDFW

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### Attachment A: Recommendations and Mitigation Measures

Biological Resources			
	Mitigation Measures	Timing	Responsible Party
CDFW-BIO-1	<p>Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction plans: No clearing, grubbing, grading, or other construction activities shall occur between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met to the satisfaction of the City Manager:</p> <p>A qualified biologist (possessing a valid endangered species act section 10(a)(1)(a) recovery permit) shall survey those wetland areas that would be subject to construction noise levels exceeding 60 decibels [dBA] hourly average for the presence of the least Bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of construction.</p> <p>a. If the least Bell's vireo is present, then the following conditions must be met:</p> <p>I. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; <u>and</u>,</p> <p>II. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dBA hourly average at the edge of occupied least bell's vireo or habitat. An analysis showing that noise generated by construction activities would not exceed 60 dBA hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two</p>	Prior to and During Construction	City/Project Proponent

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	<p>weeks prior to the commencement of construction activities. Prior to the commencement of any of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; <u>or</u>,</p> <p>III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dBA) hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dBA hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16). Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.</p> <p>b. If least Bell's vireo is not detected during the protocol survey, the qualified biologist</p>		
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	<p>shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:</p> <p>I. If this evidence indicates the potential is high for least bell's vireo to be present based on historical records or site conditions, then condition a. III shall be adhered to as specified above.</p> <p>II. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.</p>		
CDFW-BIO-2a	<p>Specific detail on bridge repair shall be provided in the Final EIR. Bridges that require repair and/or replacement, as well as the resulting potential impact areas, shall be identified. Sensitive habitat impacts on shall be mapped and the figures provided in the Final EIR.</p>	Prior to and During Construction	City/Project Proponent
CDFW-BIO-2b	<p>If the specific detail on bridge repair provided in the Final EIR reveals that project activities may significantly alter the bed, bank, or channel of Chicarita Creek, a Notification shall be submitted to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish and Game Code. CDFW shall be consulted prior to submittal if it is unclear as to whether substantial impacts to LSA-jurisdictional resources may occur.</p>	Prior to and During Construction	Project Proponent
CDFW-BIO-2c	<p>If the specific detail on bridge repair provided in the Final EIR reveals that project activities may impact any MSCP-covered habitats, impacts will be mitigated according to the City of San Diego Biology Guidelines.</p>	Prior to, During, and Post-Construction	Project Proponent
CDFW-BIO-3a	<p>Brush management activities in environmentally sensitive lands shall occur outside of bird breeding season (March 1 through August 15), and should occur between September-January.</p>	Prior to and During Construction	Project Proponent
CDFW-BIO-3b	<p>Prior to BMZ 2 thinning and bridge repair and maintenance, a qualified Biologist shall survey native habitat areas and flag occurrences of sensitive plant species, including but not limited to, any occurrences of Coulter's saltbush, variegated dudleya, California adolphia, and San Diego barrel cactus. Flagged individuals shall not be removed during BMZ 2 thinning or impacted by pedestrian bridge repair or path maintenance. The qualified Biologist shall be on site during</p>	Prior to and During Construction	Project Proponent

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	vegetation removal activities to ensure sensitive plants are not impacted.		
CDFW-BIO-4	To avoid any direct impacts to the least Bell's vireo, Cooper Hawk, yellow warbler, and other nesting bird species, removal of potential nesting habitat, including native habitats and Eucalyptus trees, in the proposed area of disturbance should occur outside of the breeding season for these species (January 15 to September 15).	Prior to and During Construction	City and Project Proponent
CDFW-BIO-5a	Prior to offloading nursery products from delivery truck and prior to installation of common landscape improvements, container plants shall be inspected by the project biologist for the presence of disease, weeds, and pests, including Argentine ants. Plants with pests, weeds, or diseases will be rejected. Watering restrictions shall be implemented through the Homeowners Association or similar organization in areas that are adjacent to native habitat areas to reduce the spread of Argentine ants.	Prior to and During Construction	Project Proponent
CDFW-BIO-5b	The planting palette for the Project shall follow Cal-IPC recommendations, and will preclude the use of non-native invasive species throughout all revegetated areas of the Project.	Prior to and During Construction	Project Proponent
	Recommendations	Timing	Responsible Party
CDFW-REC-5	Please include Coulter's saltbush, variegated dudleya, California adolphia, and San Diego barrel cactus in the planting palette within appropriate habitat for open space areas that are not subject to BMZ activities.	Prior to and During Construction	Project Proponent