

State of California – Natural Resources Agency

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

DEPARTMENT OF FISH AND WILDLIFE

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Governor's Office of Planning & Research

June 18, 2020

**Jun 18 2020**

Ms. Debbie Lawrence  
City of Los Angeles, City Planning Department  
200 N. Spring Street, Room 621  
Los Angeles, CA 90012  
[debbie.lawrence@lacity.org](mailto:debbie.lawrence@lacity.org)

## STATE CLEARINGHOUSE

**Subject: Environmental Assessment for the 350 South Figueroa Project, SCH  
# 2020050454, City of Los Angeles, Los Angeles County**

Dear Ms. Lawrence:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Environmental Assessment for the 350 South Figueroa Project (Project). 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.

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## Project Description and Summary

**Objective:** The City of Los Angeles (City) proposes to demolish an approximately 29,500-square foot portion of an existing office and commercial structure and construct a new, 41-story residential building integrated into the existing structure. The Project site is approximately 160,000 square feet in area and includes approximately 330,000 square feet of existing floor area. The Project would add approximately 624,500 square feet of new residential floor area at the southwest corner of the Project site for a combined 925,000 square feet of floor area. The residential building would be a maximum of 480 feet in height and contain 570 residential units.

**Location:** 350-356 South Figueroa Street, 830 West Third, 825 West Fourth Street, and 333-361 South Flower Street in the City of Los Angeles, California, consisting of the block bound by South Figueroa Street, South Flower Street, West Third Street and West Fourth Street. The Project site is currently improved for office, retail, educational, and parking uses. Landscaping on the Project site is characterized by ornamental landscaping on the podium rooftop and street trees in the public rights-of-way bordering the site.

## 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.

### Comment #1: Impacts to Bats

**Issue:** Urban landscapes could support habitat and refuge for bats (Avila-Flores and Fenton 2005; Oprea et al. 2009; Remington and Cooper 2014). Bats may be present in the Project site because the site contains potential roosting habitat and is near potential foraging habitat. A search of CNDDDB found records of big free-tailed bat (*Nyctinomops macrotis*), western mastiff bat (*Eumops perotis californicus*), and hoary bat (*Lasiurus cinereus*) occurring in the Project site. Western yellow bats (*Lasiurus xanthinus*) can be found year-round in urban areas throughout the south coast region (Miner and Stokes 2005). Furthermore, there is a potential bat stain under the West Fourth Street overpass that may suggest evidence of bat activity. In urbanized areas, bats use trees and man-made structures for daytime and nighttime roosts, and forage in sources of open water such as ponds and lakes (Avila-Flores and Fenton 2005; Oprea et al. 2009; Remington and Cooper 2014). Mexican fan palm trees (*Washingtonia robusta*) and crevices in buildings and overpasses in the Project site could provide roosting habitat. The Project site is approximately one mile from potential open water foraging habitat at MacArthur Park Lake and Echo Lake. Night roosts are typically utilized from the approach of sunset until sunrise.

**Specific impacts:** Impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g. staging, access, excavation, grading), and vibrations caused by heavy equipment. Demolition, grading, and excavating activities may impact bats potentially using man-made structures or surrounding trees as roost sites. 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.

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**Why impacts would occur:** 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, vibration, or the reconfiguration of large objects 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 impact 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 (SCC) 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 bat surveys be conducted by a qualified bat specialist to determine baseline conditions within the Project site and within a 500-foot buffer to identify trees and/or structures that could provide daytime and/or nighttime roost sites. CDFW recommends using acoustic recognition technology to maximize detection of bats. Survey results, including negative findings, should be submitted to CDFW for review 2 weeks prior to initiation of Project activities. Depending on survey results, provide an analysis of 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, to the extent feasible, that work should 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).

**Mitigation Measure #3:** If trees and/or structures must be removed/demolished during the maternity season, a qualified bat specialist should conduct a pre-construction survey to identify those trees and/or structures proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. CDFW recommends the use of acoustic recognition technology to maximize detection of bats. Each tree and/or structure identified as potentially supporting an active maternity roost should be closely inspected by the bat specialist no more than 7 days prior to tree and/or structure disturbance to determine the presence or absence of roosting bats more precisely. If maternity roosts are detected, trees and/or structures determined to be maternity roosts should be left in place until the end of the maternity season. Work should not occur within 100 feet of or directly under or adjacent to an active roost and work should not occur between 30 minutes before sunset and 30 minutes after sunrise.

**Mitigation Measure #4:** If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year, it is preferable to push any tree down using heavy machinery rather than felling it with a chainsaw. In order to ensure the optimum warning for any roosting bats that may still be present, the tree should 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 should then be pushed to the ground slowly and should remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts should not be bucked or mulched

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immediately. A period of at least 24 hours, and preferably 48 hours, should elapse prior to such operations to allow bats to escape. Bats should be allowed to escape prior to demolition of buildings. This may be accomplished by placing one-way exclusionary devices into areas where bats are entering a building that allow bats to exit but not enter the building.

The bat specialist should document all demolition monitoring activities and prepare a summary report to the City upon completion of tree disturbance and/or building demolition activities.

### **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 Los Angeles 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 Los Angeles in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City 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](mailto:Ruby.Kwan-Davis@wildlife.ca.gov) or (657) 215-1007.

Sincerely,

DocuSigned by:  
*Erinn Wilson-Olgin*  
B6E58CFE24724F5...

Erinn Wilson  
Environmental Program Manager I

ec: CDFW

Victoria Tang – Los Alamitos  
Malinda Santonil – Los Alamitos  
Susan Howell – San Diego  
CEQA Program Coordinator - Sacramento  
State Clearinghouse

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- 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>
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- Remington, S and D.S. Cooper. 2014. Bat Survey of Griffith Park, Los Angeles, California. *The Southwestern Naturalist* 59(4): 473-479.



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CDFW recommends the following language to be incorporated into a future environmental document for the Project.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM)</b>		<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1 – Impacts to Bats</b>	CDFW recommends bat surveys be conducted by a qualified bat specialist to determine baseline conditions within the Project site and within a 500-foot buffer to identify trees and/or structures that could provide daytime and/or nighttime roost sites. CDFW recommends using acoustic recognition technology to maximize detection of bats. Survey results, including negative findings, shall be submitted to CDFW for review 2 weeks prior to initiation of Project activities. Depending on survey results, provide an analysis of 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).	Prior to Project construction/ activities	City of Los Angeles
<b>MM-BIO-2 – Impacts to Bats</b>	CDFW recommends, to the extent feasible, that 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/ activities	City of Los Angeles

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<p><b>MM-BIO-3 – Impacts to Bats</b></p>	<p>If trees and/or structures must be removed/demolished during the maternity season, a qualified bat specialist shall conduct a pre-construction survey to identify those trees and/or structures proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. CDFW recommends the use of acoustic recognition technology to maximize detection of bats. Each tree and/or structure identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than 7 days prior to tree and/or structure disturbance to determine the presence or absence of roosting bats more precisely. If maternity roosts are detected, trees and/or structures 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.</p>	<p>Prior to/during Project construction/activities</p>	<p>City of Los Angeles</p>
<p><b>MM-BIO-4 – Impacts to Bats</b></p>	<p>If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year, it is preferable to push any tree down using heavy machinery rather than felling it with a chainsaw. In order to ensure the optimum warning for any roosting bats that may still be present, the tree 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 shall 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. Bats shall be allowed to escape prior to demolition of buildings. This may be accomplished by placing one-way exclusionary devices into areas where bats are entering a building that allow bats to exit but not enter the building. The bat specialist shall document all demolition monitoring activities and prepare a summary report to the City</p>	<p>During Project construction/activities</p>	<p>City of Los Angeles</p>

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	upon completion of tree disturbance and/or building demolition activities.		
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