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Via Electronic Mail Only

Governor's Office of Planning & Research

November 19, 2021

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STATE CLEARINGHOUSE

Subject: Draft Environmental Impact Report for the Malibu Middle and High School Campus Specific Plan, SCH #2020080350, Santa Monica-Malibu Unified School District, Los Angeles County

Dear Ms. Upton:

The California Department of Fish and Wildlife (CDFW) has reviewed a Draft Environmental Impact Report (DEIR) from the Santa Monica-Malibu Unified School District (District) for the Malibu Middle and High School Campus Specific Plan (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's 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 Project is on 52.03 acres of District-owned property consisting of the existing Malibu Middle and High School and former Juan Cabrillo Elementary School campuses. A stream designated as an Environmentally Sensitive Habitat Area (ESHA) by the City of Malibu's Local Coastal Program is located on the western edge of the Malibu Middle and High School campus. The Project proposes to redevelop and modernize the campus to create three distinct areas: Middle School Core, High School Core, and shared facilities. The Project would also restore the ESHA. The Project proposes the following:

- **Development – Defined Areas:** The Project would demolish all seven buildings and nine portables on the Juan Cabrillo Elementary School campus. The Project would also demolish six buildings and associated amenities on the Malibu Middle and High School campus. The total area of demolition for the Project adds to 154,904 square feet. The existing 25-meter lighted, outdoor pool complex would be demolished and replaced with a new Olympic-sized 50-meter pool. The existing Building E and A/B would remain. All other structures would be removed. No changes to the existing main football/track sports field, baseball, or softball fields would be made except for minor improvements, which would include construction of new field houses and additional parking adjacent to the softball field. The Project would relocate the existing on-campus Bus Barn to a disturbed location on the adjacent District-owned Malibu Equestrian Park. All buildings would have a 100-foot setback from the ESHA. Except for access trails, fencing, and parking, all other improvements would be setback 50 feet from the ESHA.
- **Development – Parking:** The Project would construct four new parking lots C through F for a total of 200 new parking spaces. Parking lots D and E would be located adjacent to the ESHA and provide approximately 129 and 32 parking spaces, respectively. Parking lot F would provide approximately 14 parking spaces and be located on undeveloped land along the northeastern boundary of the existing softball field with access from Clover Heights Avenue. All parking areas (excluding drive aisles) within the 100-foot ESHA buffer would be paved with permeable pavement to allow stormwater runoff to infiltrate into the soil below. Suspended paving systems would be constructed below the permeable paving to treat and slow stormwater runoff before it reaches the ESHA.
- **Development – Drainage Improvements:** The Project site would be divided into seven drainage management areas. Drainage Management Areas A, B, and E would drain to the existing ESHA. The Project would increase the overall imperviousness of the Project site and would continue to convey flows to existing outfall locations. Improvements would include water quality features to treat stormwater runoff generated within the phase development area and reduce runoff to match existing conditions.
- **Development – Additional Components:** The Project would include new and upgraded lighting around the campus, sports fields, and pool. The Project would also include installation of a ground-mount photovoltaic solar array system. The photovoltaic solar array would be installed on the sloping hillside to the south of existing Parking Lot A and main sports field, and to the north/northwest of the new Middle School Building E.
- **Restoration of the ESHA:** Approximately 0.50 acres of the existing developed campus

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are within the 100-foot buffer of the ESHA. The Project would demolish these structures and remove of all hardscapes within the 100-foot buffer. The Project would construct a pedestrian path and elevated outdoor learning spaces overlooking the ESHA within the 100-foot buffer, but not closer than 50 feet of the ESHA boundary. The trail would be accessible to the public during non-school hours. In total, 2.03 acres of the ESHA would be restored, with the removal of approximately 0.50 acres of hardscape and structures. Restoration would include supplementing the native vegetation currently found within the ESHA with native seed and stock; weed abatement; establishing invasive plant controls; and implementing erosion prevention and bank stability improvements within District property.

The Project would be developed in four phases over approximately 10 years, with each phase being dependent on funding availability and passage of new bond measures.

- Phase 1 would consist of demolition of all seven buildings on the former Juan Cabrillo Elementary School campus and portables P6 and P7, and construction of Building C, Parking Lot C, Parking D, and the drop-off/pick-up area. Phase 1 is funded and is anticipated to begin in fall 2022 and be completed by summer 2024.
- Phase 2 would consist of construction of Building D and the Middle School Quad. Phase 2 is anticipated to begin in fall 2024 and be completed by fall 2026. The solar panel system would be installed as part of Phase 2. Phase 2 is anticipated to begin in fall 2024 and be completed by fall 2026.
- Phase 3 would consist of demolition of Malibu Middle and High School Buildings F and I, the existing Field House, and the portables adjacent to the existing pool, and construction of Buildings J, L, and M and Parking Lots E and F. Phase 3 is anticipated to begin in fall 2028 and be completed by fall 2030. A new bond is required before Phase 3 can move forward.
- Phase 4 would involve the demolition of Malibu Middle and High School Buildings K, J, and J1; the pool and pool building; the demolition and reconstruction of the Bus Barn; and the demolition and/or relocation of the Boys and Girls Club and construction of new Buildings H and I. This phase would also require the demolition of the existing Malibu Middle and High School Building H. Phase 4 is anticipated to begin in spring 2030 and be completed by summer 2031. A new bond is required before Phase 4 can move forward.

Restoration of the ESHA would be phased to meet the District's development schedule and funding constraints. Opportunities for restoration are present at upstream, middle, and downstream areas of the ESHA, as well as developed and undeveloped areas within the proposed 50-foot buffer of the ESHA boundary. Phase 1 would include the following: demolishing hardscape within the 100-foot buffer of the downstream area; implementing restoration within the entire stream area, which would include weed abatement, broadcasting native seed, and planting of native stock; implementing bank stability improvements and erosion control in the upstream and downstream areas; and constructing the pedestrian trail and new drive aisles. Demolition of hardscape within the 100-foot buffer of the upstream and middle stream area would occur during Phase 4, as the Bus Barn and other existing structures would

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remain operational until Phase 4 commences. Upon completion of Phase 4, the pedestrian trail would be completed and connect to existing trails on the campus.

Location: The Project site is situated on three of the nine parcels on District-owned property located at 30215 Morning View Drive in the City of Malibu, Los Angeles County. Assessor's Parcel Numbers associated with the Project site are 4469-017-900 (40.06 acres), 4469-018-900 (9.4 acres), and 4459-018-904 (2.57 acres). Most of the Project would be developed on the existing Malibu Middle and High School and former Juan Cabrillo Elementary School campuses. One Project component would be in the Malibu Equestrian Park. The Project site is approximately 0.25 miles northeast of the Pacific Coast Highway and Zuma Beach, and is bounded by Merritt Drive to the east, Via Cabrillo Street to the west, and Morning View Drive to the south, and single-family homes to the north.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the District 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 are also 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: Impacts on Monarch Butterfly

Issue: The Project could impact the monarch butterfly (*Danaus plexippus* population 1 – California overwintering population; monarch).

Specific impacts: Project construction and activities may cause overwintering monarchs to abandon a potential overwintering site on District property near the Project site. Negative effects on monarchs may include injury or mortality as well as reduced health, vigor, and likelihood of winter survival. This could potentially result in local population decline of monarchs.

Why impacts would occur: According to page 5.3-71 in the DEIR, "eucalyptus groves within the Project boundary have the potential to support overwintering monarch butterflies." Based on a search of [Western Monarch Count's Overwintering Site Map](#), the Project site is less than ½ mile from three monarch overwintering sites (Western Monarch Count 2021a). Given the presence of suitable overwintering habitat on District property and the Project site's proximity to overwintering sites, the eucalyptus grove could support overwintering monarchs.

The most vulnerable element of the monarch annual cycle may be the overwintering stage (Xerces Society 2017). Protection of overwintering habitat is critical to supporting the migratory phenomenon and conserving the species. Overwintering groves have specific microclimatic conditions that support monarch populations (Fisher et al. 2018). Project construction and activities (e.g., demolition, grading, paving, and excavating) occurring near the eucalyptus grove particularly during Phase 4, could alter microclimatic conditions at the overwintering site by increasing levels of human presence, noise, lighting, and dust accumulating on the surface of

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the leaves of vegetation. Alteration of an overwintering site and surrounding areas could reduce the suitability of an overwintering site for monarchs (Weiss et al. 1991). Accordingly, the Project could potentially significantly impact monarchs by reducing overwintering habitat or altering habitat climatic conditions.

Evidence impact would be significant: The western migratory monarch population that overwinters along the California coast has declined by more than 99 percent from an estimated 4 million butterflies just twenty years ago (CDFW 2021a; Marcum and Darst 2021). Habitat loss and fragmentation, including grove senescence, are among the primary threats to the population (Thogmartin et al. 2017). Given the precipitous decline of monarch butterfly, the monarch butterfly is currently slated to be listed in 2024 under the Endangered Species Act (CDFW 2021a). The monarch butterfly is included on CDFW's [Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#) list and identified as a Species of Greatest Conservation Need in California's [State Wildlife Action Plan](#) (CDFW 2017; CDFW 2015). Additionally, Fish and Game Code section 1002 prohibits the take or possession of wildlife for scientific research, education, or propagation purposes without a valid Scientific Collection Permit issued by CDFW. This applies to handling monarchs, removing them from the wild, or otherwise taking them for scientific or propagation purposes, including captive rearing. Fish and Game Code section 1021 directs CDFW to take feasible actions to conserve monarchs and the habitats they depend upon for successful migration. Lastly, Fish and Game Code section 1374 directs the Monarch Butterfly and Pollinator Rescue Program, administered by the Wildlife Conservation Board, to recover and sustain populations of monarchs.

The monarch meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Impacts on the monarchs may require a mandatory finding of significance because the Project would have the potential to threaten to eliminate an animal community and/or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, §15065). The reduction in the number of monarchs, either directly or indirectly through habitat loss, would constitute a significant impact absent appropriate mitigation. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct 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 and/or U.S. Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Monarch Overwintering Habitat Assessment – Given that suitable overwintering habitat is present, CDFW recommends the District retain a qualified biologist to conduct an overwintering habitat assessment prior to starting Phase 1. The qualified biologist should determine if the District's property and/or its immediate vicinity contains suitable overwintering habitat or if monarchs have been known to historically use habitat within and adjacent to the District's property. The qualified biologist should assess overwintering habitat following the [Xerces Management Guidelines for Monarch Butterfly Overwintering Habitat](#) (Xerces Society 2017) or other protocols with prior approval by CDFW. A summary report should be submitted to the District and City of Malibu prior to starting Phase 1.

Mitigation Measure #2: Monarch Overwintering Habitat Avoidance – CDFW recommends the District consult with a qualified biologist to determine primary roosting trees and other

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structural components or flora integral to maintaining microclimate conditions at overwintering habitat. These plants should be marked prior to starting Phase 1. Overwintering habitat should be avoided for the duration of the Project. A qualified biologist should assess overwintering habitat and remark/delineate overwintering habitat as needed for the duration of the Project following the [Xerces Management Guidelines for Monarch Butterfly Overwintering Habitat](#) (Xerces Society 2017).

Mitigation Measure #3: Overwintering Monarch Survey – Prior to starting Project construction and activities during the overwintering period of September 15 through March 15¹, a qualified biologist should conduct multiple surveys for overwintering monarchs where overwintering habitat has been identified. Monitoring should be done as frequently as possible during the overwintering season to capture changing distributions through the season and in response to storm events.

Mitigation Measure #4: Monarch Impact Avoidance – If overwintering monarchs are present at the eucalyptus grove adjacent to the equestrian field, CDFW recommends the District avoid all Project construction and activities south of the equestrian field to the Bus Barn. Elsewhere where there is overwintering habitat and monarchs are present, the District should coordinate with a qualified biologist and CDFW to determine appropriate no-disturbance/no-work buffers prior to starting Project construction and activities. Project construction and activities may only start after all overwintering monarchs have departed the overwintering site as determined by a qualified biologist.

Mitigation Measure #5: Overwintering Habitat Preservation – Given that suitable overwintering habitat is present, CDFW recommends the District preserve overwintering habitat. If the District must remove overwintering habitat and other structural components or flora integral to maintaining microclimate conditions, the District should coordinate with CDFW prior to starting any activities that may impact overwintering habitat.

Recommendation #1: Overwintering Habitat Management – CDFW recommends avoiding or minimizing the cutting or trimming of trees and vegetation within core overwintering habitat except for specific grove management purposes, and/or human health and safety purposes. Any management activities in overwintering habitat should be conducted between March 16 and September 14² in coordination with a qualified biologist. CDFW recommends the District consider overwintering habitat management recommendation provided by the USFWS in [Western Monarch Butterfly Conservation Recommendations](#) (USFWS 2021).

Recommendation #2: Pesticide Use – CDFW recommends the District avoid or minimize the use of pesticides within one mile of overwintering groves, particularly when monarchs may be present. Non-chemical weed control techniques should be used when possible. If pesticides are used, applications should be conducted from March 16 through September 14, when possible. Whenever possible, targeted application herbicide methods should be used, large-scale broadcast applications should be avoided, and precautions should be taken to limit off-site movement of herbicides (e.g., drift from wind and discharge from surface water flows). Neonotinoids or other systemic insecticides, including coated seeds, should not be used any

¹ The overwintering period is the estimated timeframe when monarchs are likely present. The overwintering period could vary by location and should be determined in coordination with a qualified biologist.

² Outside of estimated timeframe when monarchs are likely present.

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time of the year in monarch habitat due to their ecosystem persistence, systemic nature, and toxicity. Soil fumigants should not be used.

Recommendation #3: Planting Native Species – CDFW encourages landscaping using locally occurring native trees and shrubs to benefit native wildlife such as insect pollinators. Insect pollinators such as the monarch butterfly and native bees have declined drastically relative to 1980s levels and have had an especially drastic decline since 2018 (Goulson et al. 2015; Marcum and Darst 2021). Habitat loss may be a primary driver of monarch decline in the west (Crone et al. 2019). CDFW recommends planting native flowering species over non-native ornamental species where possible. Tropical milkweed (*Asclepias currasavica*) should never be included in landscaping.

Recommendation #4: CDFW recommends the following resources for information on monarchs and overwintering habitat:

- [Western Monarch Butterfly Conservation Plan](#) (WAFWA 2019);
- [Overwintering Site Management and Protection](#) (Western Monarch Count 2021);
- [Protecting California's Butterfly Groves](#) (Xerces Society 2017);
- [Managing Monarch Habitat in the West](#) (Xerces Society 2021a);
- [Monarch Butterfly Nectar Plant Lists for Conservation Plantings](#) (Xerces Society 2018);
- [Tropical Milkweed](#) (Wheeler 2018); and,
- CDFW's [Monarch Butterfly](#) webpage page (CDFW 2021a).

Recommendation #5: CDFW recommends the District contribute monarch and overwintering habitat data to databases such as the California Natural Diversity Database (see Additional Comment #5). Report milkweed and monarch observations from all life stages, including breeding butterflies, to the [Monarch Milkweed Mapper](#) or via the [project portal](#) in the iNaturalist smartphone app.

Comment #2: Impacts on Aquatic Resources

Issue: The Project would impact aquatic resources and associated vegetation.

Specific impacts: The Project as proposed would result in permanent impacts to “a total of 0.033 acre of waters under the jurisdiction of CDFW.”

Why impact would occur: A feature called the Basin located east of Drainage 1 would be demolished during Phase 4A of the Project. Demolition of the Basin would result in 0.033 acre of impacts to waters and cattail marsh (*Typha* Herbaceous Alliance). The District is proposing mitigation measure BIO-5, which would require “creation of 0.033 acre of non-wetland jurisdictional waters.” Mitigation measure BIO-5 as proposed may be insufficient because 1:1 may not mitigate for the temporal loss of habitat. BIO-5 would be implemented “upon completion of construction activities.” Phase 4A is expected to take one year, and habitat creation may take upwards of five years to be successful. Habitat creation could take even longer during below average rainfall years, which could result in lower planting survivorship due to plant stress, desiccation, and attrition. The Project could result in prolonged temporal loss of habitat, potentially upwards of five years or more of habitat loss that could otherwise support wildlife such as birds, reptiles, and amphibians.

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Evidence impacts would be significant: The Project would demolish the Basin and impact “a total of 0.033 acre of waters under the jurisdiction of CDFW.” CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated plant communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake³;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources. The DEIR concludes that Project impacts to the Basin and plant community “would be significant and would require permitting.” The Project could have a significant impact on fish and wildlife resources if the District does not notify and obtain an LSA Agreement from CDFW prior to starting Project construction and activities adversely affect fish and wildlife resources pursuant to Fish and Game Code section 1600 et seq.

Inadequate mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated plant communities.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW concurs with mitigation measure BIO-5, which would require the District to acquire a Lake and Streambed Alteration (LSA) Agreement from CDFW. The District should acquire a LSA Agreement from CDFW prior to starting any Project construction and activities that could impact the Basin and associated vegetation, as well as any construction and activities for the duration of the Project that could result in one or more actions subject to notification under Fish and Game Code section 1602. Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage to for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021b).

Mitigation Measure #2: CDFW recommends the LSA Notification include the following information and analyses:

- 1) Linear feet and/or acreage of streams and associated plant communities that would be permanently and/or temporarily impacted by the Project. Plant community names should be provided based on vegetation association and/or alliance per the [Manual of California Vegetation](#), second edition (Sawyer et al. 2009);
- 2) A discussion as to whether impacts to streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity.

³ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

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Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed;

- 3) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation should assess a sufficient range of storm events (e.g., 100-, 50-, 25-, 10-, 5-, or 2-year frequency storm events) to evaluate water and sediment transport under existing and proposed conditions; and,
- 4) A discussion as to whether proposed structures/improvements within the 100-foot ESHA buffer would result in stream bank erosion or impair the bed, bank, and channel of the stream.

Mitigation Measure #3: To mitigate for 0.033 acre of impacts, CDFW recommends the District create no less than 0.07 acres of habitat on site or within the same watershed.

Recommendation: CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the District for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the District consider CDFW's comments and incorporate the mitigation measures and revisions recommended in this letter into the Project's final environmental document. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

Comment #3: Impacts on Burrowing Owl

Issue: The Project may impact burrowing owl (*Athene cunicularia*), a California Species of Special Concern (SSC).

Specific impacts: Project construction and activities during the burrowing owl wintering and breeding seasons for the 10-year duration of the Project could cause local burrowing owl declines.

Why impacts would occur: Wintering burrowing owls were observed at two separate burrows adjacent to the existing track and field. According to page 5.3-71 in the DEIR, implementation of Phases 2 and 4 may indirectly impact the burrowing owl. Project construction and activities would include building demolition, grading, trenching, and paving. These activities create elevated levels of noise, human activity, dust, ground vibrations, vegetation disturbance, and potentially ambient nighttime lighting. These activities occurring near potential wintering sites could flush burrowing owls, cause burrowing owls to abandon their burrow, and reduce the likelihood of winter survival. In addition, these activities occurring near potential nests could result in reduced reproductive capacity and cause burrowing owls to abandon their nests, resulting in the loss of fertile eggs or nestlings. Project-related impacts on burrowing owl during the wintering and breeding seasons over the course of 10 years could cause local burrowing

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owl declines because of increased burrowing owl mortalities due to increased stress (needless energy expenditure) and injury; reproductive suppression; and loss of young.

The DEIR provides mitigation measure BIO-1 to mitigate for impacts on burrowing owl. Mitigation measure BIO-1 as proposed may be insufficient to reduce Project impacts on burrowing owl to less than significant. BIO-1 only requires pre-construction burrowing owl surveys prior to initiation of Phase 4. Pre-construction surveys are not proposed prior to Phases 1, 2, or 3. All phases of the Project may involve high disturbance activities including, but not limited to, building demolition, grading, trenching, and paving. Burrowing owls within 500 meters of those high disturbance activities could be impacted (burrowing owls were observed within 500 meters from the Project site). The Project could impact burrowing owls absent a burrowing owl survey prior to starting each Project phase. Moreover, the Project is estimated to occur over 10 years. Two years may elapse between the completion of Phase 2 and start of Phase 3. Burrowing owls may attempt to colonize or re-colonize impacted areas, especially if the Project is temporarily halted for a long period of time. Given the high site fidelity shown by burrowing owls, conducting surveys over the span of the Project may be necessary when Project activities are ongoing, occur annually, or start and stop seasonally (CDFG 2012).

BIO-1, as it is currently proposed, does not provide sufficient survey frequency or effort to detect and avoid impacts on burrowing owls occupying or returning to burrows on District property over the Project's estimated 10-year lifespan. The Project proceeding when burrowing owls are present could result in increased burrowing owl mortalities due to increased stress (needless energy expenditure) and injury; reproductive suppression; and loss of young. Local population decline could contribute to regional and State-wide declines of the species.

Evidence impacts would be significant: The burrowing owl is a SSC. A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2021c).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

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In addition, nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Fish and Game Code section 3503 states, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird." Fish and Game code section 3503.5 prohibits the take, possession, or destruction of birds-of-prey and their nests or eggs. Also, take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918) is prohibited under Fish and Game Code section 3513. As such, impacts on nesting burrowing owl, either directly or indirectly through nest abandonment, reproductive suppression, or loss of occupied nesting habitat, would be a significant impact absent appropriate mitigation.

Inadequate avoidance, minimization, and mitigation measures for impacts on burrowing owl will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the District revise mitigation measure BIO-1 by including the underlined language and removing the stricken language:

"Pre-Construction Burrowing Owl Surveys and Avoidance: In the year prior to initiation of Proposed Project activities in Phase 1, Phase 2, Phase 3, and Phase 4, and before recommencing Proposed Project after construction and activities are suspended/delayed for six months or more, the Proposed Project a qualified biologist shall conduct pre-construction burrowing owl surveys in accordance with the 2012 CDFW Burrowing Owl Consortium Survey Protocols and Mitigation Guidelines (CDFW 2012). If wintering or breeding burrowing owl are observed adjacent to the impact area, mitigation shall be conducted in accordance with the CDFW guidelines (CDFW 2012). To avoid impacts and disturbances to burrowing owls, nests, or eggs, the Proposed Project shall avoid construction and activities during the nesting season from February 1 through August 31 to the extent feasible. Construction and activities would be restricted near nesting sites at a setback distance depending on the level of disturbance and time of year in accordance with CDFW guidelines. A qualified biologist shall monitor nests to ensure that burrowing owls are not detrimentally affected. Nests shall be protected and marked in accordance with BIO-1."

Mitigation Measure #2: Use of rodenticides and second-generation anticoagulant rodenticides should be prohibited during and after the Project. Rodenticides and second-generation anticoagulant rodenticides have harmful effects on the ecosystem and wildlife.

Comment #4: Impacts on Species of Special Concern

Issue: The Project may impact coastal whiptail (*Aspidoscelis tigris stejnegeri*), a SSC.

Specific impacts: Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of a SSC. Also, loss of foraging, breeding, or nursery habitat for a SSC may occur.

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Why impacts would occur: According to Table 5.3-3 in the DEIR, coastal whiptail may occur in the Project impact area. Impacts to coastal whiptail could result from ground-disturbing activities and vegetation removal. Wildlife may be trapped or crushed under structures. Large equipment, equipment and material staging, and vehicle and foot traffic could trample or bury wildlife. SSC could be injured or killed. Impacts on coastal whiptail are more likely to occur because this is a cryptic species that is less mobile during certain times of the day and seek refuge and hide under structures.

Evidence impacts would be significant: CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC (see Comment #3: Impacts on Burrowing Owl) which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The DEIR does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status 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 by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Biological Monitor – To avoid direct injury and mortality of SSC, CDFW recommends the District have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where a SSC is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution. A qualified biologist should be on site daily during initial ground and habitat disturbing activities as well as vegetation removal for each Project phase. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project phase until the cessation of all ground and habitat disturbing activities, as well as vegetation removal to ensure that no wildlife is harmed.

Mitigation Measure #2: Scientific Collecting Permit – CDFW recommends the District retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003).

Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2021d). Pursuant to the [California Code of Regulations, title 14, section 650](#), the qualified biologist must obtain or have appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid

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harm or mortality in connection with Project construction and activities. The LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement (see Comment #2: Impacts on Aquatic Resources).

Mitigation Measure #3: Wildlife Relocation Plan – Prior to starting Phase 1 ground and habitat disturbing activities and vegetation removal, CDFW recommends the District retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan should describe all SSC that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan should include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The qualified biologist should submit a copy of a Wildlife Relocation Plan to the District and City of Malibu prior to initial ground and habitat disturbing activities and vegetation removal. No bird nests, eggs, or nestlings may be removed or relocated at any time.

Mitigation Measure #4: Injured or Dead Wildlife – If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW, District, and City of Malibu within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Comment #5: Impacts on Bats

Issue: The Project may impact roosting bats, including bat species that are SSC.

Specific impacts: Project construction and activities may include removal or disturbance of trees that could provide roosting habitat for bats. Accordingly, the Project has the potential to injure, cause the mortality of, trap, and displace bats.

Why impacts would occur: According to page 5.3-24 in the DEIR, “the trees in the [Biological Study Area] BSA also provide potential roosting opportunities for the hoary bat (*Aeorestes cinereus*) or the western red bat (*Lasiurus frantzii*). Species that may occur include but are not limited to the Brazilian freetailed bat (*Tadarida brasiliensis*), big brown bat (*Eptesicus fuscus*), canyon bat (*Parastrellus hesperus*), and California myotis (*Myotis californicus*) may all occur in the BSA.” The western red bat is a SSC.

The Project may result in direct impacts on bats (injury and mortality) by removing trees and demolishing structures that may provide roosting habitat. Indirect impacts on bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g., demolition, grading, trenching, and paving), and vibrations caused by heavy equipment. 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. 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). Human disturbance can lead to a change in humidity, temperatures, or the approach to a roost that could force the

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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 SSC (see Comment #3: Impacts on Burrowing Owl). CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Acoustic Surveys for Bats – CDFW recommends the District retain a qualified bat specialist to identify potential daytime, nighttime, wintering, and hibernation roost sites and conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify roosting bats and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats. Surveys should be conducted prior to starting each Project phase and if construction and activities are suspended/delayed for one year or more.

Mitigation Measure #2: Survey Results and Bat Mitigation Plan – After Phase 1 surveys, a qualified biologist should prepare a summary report to be submitted to the District and City of Malibu. Depending on the survey results, the qualified biologist should also prepare a Bat Mitigation Plan that identifies robust location and roost-specific measures to avoid and minimize Project impacts on bats. The Bat Mitigation Plan should incorporate mitigation measures in accordance with [California Bat Mitigation Measures](#) (Johnston et al. 2004). A summary report and Bat Mitigation Plan should be submitted to the District and City of Malibu prior to starting Phase 1. Bat surveys should be submitted to the District and City of Malibu before starting each Project phase and if construction and activities are suspended/delayed for one year or more. The Bat Mitigation Plan should be updated (or developed) as needed following each survey.

Mitigation Measure #3: Roosting Bats/Tree Removal – If a bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal trees should be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees should be pushed lightly two or 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 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 immediately. A period of at least 24 hours, and preferable 48 hours, should elapse prior to such operations to allow bats to escape.

Mitigation Measure #4: Maternity Roosts – If maternity roosts are found, to the extent feasible, work should be scheduled between October 1 and February 28, outside of the

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maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).

Mitigation Measure #5: Maternity Roosts – If maternity roosts are found and impacts are unavoidable, each tree identified as potentially supporting an active maternity roost should be closely inspected by a qualified bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roost bats more precisely. If maternity roosts are detected, trees/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. Work should also not occur between 30 minutes before sunset and 30 minutes after sunrise.

Additional Recommendations

1) Mountain lion (*Puma concolor*). The mountain lion is a specially protected mammal in the State (Fish and G. Code, § 4800). In addition, on April 21, 2020, the California Fish and Game Commission accepted a petition to list an evolutionarily significant unit of mountain lion in southern coastal California as threatened under CESA (CDFW 2020a). As a CESA candidate species, the mountain lion in southern California is granted full protection of a threatened species under CESA. The Project is adjacent to the Santa Monica Mountains where mountain lion occurs. Impacts on mountain lion could result from increased human presence, traffic, noise, and artificial lighting. For example, as human population and communities expand into wildland areas, there has been a commensurate increase in direct and indirect interaction between mountain lions and people (CDFW 2013). As a result, the need to relocate or humanely euthanize mountain lions (depredation kills) may increase for public safety. To prevent human-wildlife conflicts on campus and to keep mountain lions wild, CDFW recommends the District consider the following as part of campus design and campus management and maintenance in perpetuity:

- Never feed deer or other wildlife; it is illegal to feed deer and other big game in California and it will attract mountain lions;
- Deer-proof campus landscaping by avoiding plants that deer like to eat;
- Trim brush to reduce hiding places for mountain lions;
- Install motion-sensitive lighting around the campus;
- Increase site permeability through permeable fence designs to limit physical obstructions to wildlife movement; and,
- Make a commitment to educate students, faculty, and staff about mountain lion.

Please visit [Keep Me Wild](#) (CDFW 2021e) for additional information, as well as [Preventing Conflicts with Mountain Lions](#) (CDFW 2020b). For information wildlife friendly fences, please see [A Landowner's Guide to Wildlife Friendly Fences](#) (MFWP 2012).

2) Nesting Birds. CDFW concurs with the Project's proposed mitigation measure BIO-2 to avoid impacts on nesting birds and raptors. However, one or more years may elapse between phases over the Project's estimated 10-year construction period. Therefore, CDFW recommends revising BIO-2 to require the District to perform nesting bird surveys before recommencing construction and activities after a period of inactivity. CDFW recommends the District revise BIO-2 by incorporating the underlined language:

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“Pre-Construction Nesting Bird Surveys: To the extent possible, vegetation removal shall be conducted during the non-breeding season (i.e., September 1 to January 31) in order to minimize direct impacts on nesting birds and raptors. If construction activities would be initiated during the breeding season for nesting birds/raptors (i.e., February 1–August 31), a pre-construction survey will be conducted by a qualified Biologist within three days prior to the initiation of construction (including demolition of structures). If construction activities are delayed or suspended for more than 7 days during the breeding season, nesting bird surveys shall be repeated before activities can begin or restart. In addition, nesting bird surveys shall be conducted prior to starting phased Project construction and activities. The absence of nesting bird and raptors shall be considered valid only until the following breeding season [...]”

- 3) Landscaping. According to Table 3-13 *MMHS Campus Plant Palette*, landscaping may include some potentially invasive species. For example, the plant palette includes Lantana (*Lantana camara*). Lantana is on Cal-IPC’s ‘Watch’ list. In natural and semi-natural vegetation, Lantana may smother vegetation and increase fire intensity (due to an increase in dry biomass), thus displacing native plant communities. Invasive plant species spread quickly and can displace native plants, prevent native plant growth, prevent native plant recruitment, and create monocultures.

CDFW strongly recommends avoiding non-native, invasive plants for landscaping and restoration, particularly any species listed as ‘Moderate’ or ‘High’ by the California Invasive Plant Council (Cal-IPC 2021a). CDFW supports the use of native species found in naturally occurring vegetation communities within or adjacent to District property. In addition, CDFW supports planting species of trees and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. 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 for southern California (Cal-IPC 2021b). The Audubon Society’s [Plants for Birds](#), California Native Plant Society’s [Gardening and Horticulture](#), and Xerces Society’s [Pollinator-Friendly Native Plant Lists](#) webpages provide information on native plant species that invite insects, pollinators, and birds (Audubon Society; CNPS 2021; Xerces Society 2021b).

- 4) Fencing. CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.
- 5) Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any

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special status species detected by completing and submitting [CNDDB Field Survey Forms](#) (CDFW 2021f). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Releve Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2021g). The District should ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The District should provide CDFW with confirmation of data submittal.

- 6) Mitigation and Monitoring Reporting Plan. CDFW recommends the District update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the District in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The District is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the District 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

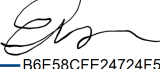
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Santa Monica-Malibu Unified School District and serve to help defray the cost of environmental review by CDFW. Payment 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 Santa Monica-Malibu Unified School District in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the Santa Monica-Malibu Unified School District 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 (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:



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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1 Impacts on Monarch Butterfly - Monarch Overwintering Habitat Assessment	The District shall retain a qualified biologist to conduct an overwintering habitat assessment prior to starting Phase 1. The qualified biologist shall determine if the District's property and/or its immediate vicinity contains suitable overwintering habitat or if monarchs have been known to historically use habitat within and adjacent to the District's property. The qualified biologist shall assess overwintering habitat following the Xerces Management Guidelines for Monarch Butterfly Overwintering Habitat or other protocols with prior approval by CDFW. A summary report shall be submitted to the District and City of Malibu prior to starting Phase 1.	Prior to starting Phase 1	Santa Monica-Malibu Unified School District (District)
MM-BIO-2 Impacts on Monarch Butterfly - Monarch Overwintering Habitat Avoidance	The District shall consult with a qualified biologist to determine primary roosting trees and other structural components or flora integral to maintaining microclimate conditions. These plants shall be marked prior to starting Phase 1. Overwintering habitat shall be avoided for the duration of the Project. A qualified biologist shall assess overwintering habitat and remark/delineate overwintering habitat as needed for the duration of the Project following the Xerces Management Guidelines for Monarch Butterfly Overwintering Habitat .	Prior to Phase 1 For the duration of the Project	District
MM-BIO-3 Impacts on Monarch Butterfly - Monarch	Prior to starting Project construction and activities during the overwintering period of September 15 through March 15, a qualified biologist shall conduct multiple surveys for overwintering monarchs where overwintering habitat has been identified. Monitoring shall be done as frequently as possible during the	Prior to starting Project construction and activities	District

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Overwintering Monarch Survey	overwintering season to capture changing distributions through the season and in response to storm events.	during the overwintering period of September 15 through March 15	
MM-BIO-4 Impacts on Monarch Butterfly - Monarch Impact Avoidance	If overwintering monarchs are present at the eucalyptus grove adjacent to the equestrian field, the District shall avoid all Project construction and activities south of the equestrian field to the Bus Barn. Elsewhere where there is overwintering habitat and monarchs are present, the District shall coordinate with a qualified biologist and CDFW to determine appropriate no-disturbance/no-work buffers prior to starting Project construction and activities. Project construction and activities may only start after all overwintering monarchs have departed the overwintering site as determined by a qualified biologist.	Prior to starting Project construction and activities	District
MM-BIO-5 Impacts on Monarch Butterfly - Overwintering Habitat Preservation	The District shall preserve overwintering habitat. If the District must remove overwintering habitat and other structural components or flora integral to maintaining microclimate conditions, the District shall coordinate with CDFW prior to starting any activities that may impact overwintering habitat.	Prior to starting any activities that may impact overwintering habitat	District
MM-BIO-6 Impacts on Aquatic Resources-LSA Agreement	The District shall acquire a Lake and Streambed Alteration (LSA) Agreement from CDFW prior to starting any Project construction and activities that could impact the Basin and associated vegetation, as well as any construction and activities for the duration of the Project that could result in one or more actions subject to notification under Fish and Game Code section 1602.	Prior to starting any Project construction and activities	District
MM-BIO-7 Impacts on Aquatic Resources-LSA Notification	The District's LSA Notification shall include the following information and analyses: 1) Linear feet and/or acreage of streams and associated plant communities that would be permanently and/or temporarily	LSA Notification Prior to starting any	District

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	<p>impacted by the Project. Plant community names shall be provided based on vegetation association and/or alliance per the Manual of California Vegetation, second edition;</p> <p>2) A discussion as to whether impacts to streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed;</p> <p>3) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation shall assess a sufficient range of storm events (e.g., 100-, 50-, 25-, 10-, 5-, or 2-year frequency storm events) to evaluate water and sediment transport under existing and proposed conditions; and,</p> <p>4) A discussion as to whether proposed structures/improvements within the 100-foot ESHA buffer would result in stream bank erosion or impair the bed, bank, and channel of the stream.</p>	Project construction and activities	
MM-BIO-8 Impacts on Aquatic Resources-Compensatory Mitigation	To mitigate for 0.033 acre of impacts, the District shall create no less than 0.07 acres of habitat on site or within the same watershed.	During/After Project Phase 4A	District
MM-BIO-9 Impacts on Burrowing Owl-Pre-Construction Burrowing Owl Surveys and Avoidance	In the year prior to initiation of Proposed Project activities in Phase 1, Phase 2, Phase 3, and Phase 4, and before recommencing Proposed Project after construction and activities are suspended/delayed for six months or more, a qualified biologist shall conduct pre-construction burrowing owl surveys in accordance with the 2012 CDFW Burrowing Owl Consortium Survey Protocols and Mitigation Guidelines (CDFW 2012). If wintering or breeding burrowing owl are observed adjacent to the	One year prior to initiation of Proposed Project phases	District

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	<p>impact area, mitigation shall be conducted in accordance with the CDFW guidelines (CDFW 2012). To avoid impacts and disturbances to burrowing owls, nests, or eggs, the Proposed Project shall avoid construction and activities during the nesting season from February 1 through August 31 to the extent feasible. Construction and activities would be restricted near nesting sites at a setback distance depending on the level of disturbance and time of year in accordance with CDFW guidelines. A qualified biologist shall monitor nests to ensure that burrowing owls are not detrimentally affected. Nests shall be protected and marked in accordance with BIO-1.</p>	<p>During Project construction and activities</p>	
<p>MM-BIO-10 Impacts on Burrowing Owl- Prohibiting Rodenticides</p>	<p>Use of rodenticides and second-generation anticoagulant rodenticides shall be prohibited during and after the Project.</p>	<p>During and after the Project</p>	<p>District</p>
<p>MM-BIO-11 Impacts on Species of Special Concern- Biological Monitor</p>	<p>To avoid direct injury and mortality of SSC, the District shall have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where a SSC is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist shall advise workers to proceed with caution. A qualified biologist shall be on site daily during initial ground and habitat disturbing activities as well as vegetation removal for each Project phase. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project phase until the cessation of all ground and habitat disturbing activities, as well as vegetation removal to ensure that no wildlife is harmed.</p>	<p>Daily during initial ground and habitat disturbing activities and vegetation removal for each Project phase</p>	<p>District</p>

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<p>MM-BIO-12 Impacts on Species of Special Concern- Wildlife Relocation Plan</p>	<p>Prior to starting Phase 1 ground and habitat disturbing activities and vegetation removal, the District shall retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan shall describe all SSC that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan shall include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The qualified biologist shall submit a copy of a Wildlife Relocation Plan to the District and City of Malibu prior to initial ground and habitat disturbing activities and vegetation removal. No bird nests, eggs, or nestlings may be removed or relocated at any time.</p>	<p>Prior to Phase 1 ground and habitat disturbing activities and vegetation removal</p>	<p>District</p>
<p>MM-BIO-13 Impacts on Species of Special Concern- Injured or Dead Wildlife</p>	<p>If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW, District, and City of Malibu within three calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.</p>	<p>During Project construction and activities Prior to resuming work</p>	<p>District</p>
<p>MM-BIO-14 Impacts on Bats- Acoustic Surveys for Bats</p>	<p>The District shall retain a qualified bat specialist to identify potential daytime, nighttime, wintering, and hibernation roost sites and conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify roosting bats and any maternity roosts. Acoustic recognition technology shall be used to maximize detection of bats. Surveys shall be conducted prior to starting each Project phase and if construction and activities are suspended/delayed for one year or more.</p>	<p>Prior to starting each Project phase and if construction and activities suspended/ delayed for one year or more</p>	<p>District</p>

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<p>MM-BIO-15 Impacts on Bats- Survey Results and Bat Mitigation Plan</p>	<p>After Phase 1 surveys, a qualified biologist shall prepare a summary report to be submitted to the District and City of Malibu. Depending on the survey results, the qualified biologist shall also prepare a Bat Mitigation Plan that identifies robust location and roost-specific measures to avoid and minimize Project impacts on bats. The Bat Mitigation Plan shall incorporate mitigation measures in accordance with California Bat Mitigation Measures (Johnston et al. 2004). A summary report and Bat Mitigation Plan shall be submitted to the District and City of Malibu prior to starting Phase 1. Bat surveys shall be submitted to the District and City of Malibu before starting each Project phase and if construction and activities are suspended/delayed for one year or more. The Bat Mitigation Plan shall be updated (or developed) as needed following each survey.</p>	<p>Prior to starting Phase 1</p> <p>Prior to starting each Project phase and if construction and activities suspended/delayed for one year or more</p>	<p>District</p>
<p>MM-BIO-16 Impacts on Bats- Roosting Bats/Tree Removal</p>	<p>If a bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal trees shall be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees shall be pushed lightly two or 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 preferable 48 hours, shall elapse prior to such operations to allow bats to escape.</p>	<p>During tree removal</p>	<p>District</p>
<p>MM-BIO-17 Impacts on Bats- Maternity Roosts</p>	<p>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 yet ready to fly out of the roost (March 1 to September 30).</p>	<p>Prior to Project construction and activities</p>	<p>District</p>

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MM-BIO-18 Impacts on Bats- Maternity Roosts	<p>If maternity roosts are found and impacts are unavoidable, each tree identified as potentially supporting an active maternity roost shall be closely inspected by a qualified bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roost bats more precisely. If maternity roosts are detected, trees/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. Work shall also not occur between 30 minutes before sunset and 30 minutes after sunrise.</p>	Prior to tree disturbance	District
REC-1- Monarch Overwintering Habitat Management	<p>The District should avoid or minimize the cutting or trimming of trees and vegetation within core overwintering habitat except for specific grove management purposes, and/or human health and safety purposes. Any management activities in overwintering habitat should be conducted between March 16 and September 14 in coordination with a qualified biologist. The District should consider overwintering habitat management recommendation provided by the USFWS in Western Monarch Butterfly Conservation Recommendations.</p>	Between March 16 and September 14	District
REC-2- Monarch Overwintering Habitat Management	<p>The District should avoid or minimize the use of pesticides within one mile of overwintering groves, particularly when monarchs may be present. Non-chemical weed control techniques should be used when possible. If pesticides are used, applications should be conducted from March 16 through September 14, when possible. Whenever possible, targeted application herbicide methods should be used, large-scale broadcast applications should be avoided, and precautions should be taken to limit off-site movement of herbicides (e.g., drift from wind and discharge from surface water flows). Neonicotinoids or other systemic insecticides, including coated seeds, should not be used any time of the year in monarch habitat due to their ecosystem persistence, systemic nature, and toxicity. Soil fumigants should not be used.</p>	Between March 16 and September 14	District

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REC-3- Monarch Overwintering Habitat Management	The District should use locally occurring native trees and shrubs for landscaping to benefit native wildlife such as insect pollinators. The District should plant native flowering species over non-native ornamental species where possible. Tropical milkweed (<i>Asclepias currasavica</i>) should never be included in landscaping.	Prior to finalizing Project design and plan	District
REC-4- Monarch Resources	<p>CDFW recommends the following resources for information on monarchs and overwintering habitat:</p> <ul style="list-style-type: none"> • Western Monarch Butterfly Conservation Plan • Overwintering Site Management and Protection • Protecting California's Butterfly Groves • Managing Monarch Habitat in the West • Monarch Butterfly Nectar Plant Lists for Conservation Plantings • Tropical Milkweed • CDFW's Monarch Butterfly webpage page 	Prior to finalizing Project design and plan	District
REC-5- Submitting Monarch Data	CDFW recommends the District contribute monarch and overwintering habitat data to databases such as the California Natural Diversity Database . Report milkweed and monarch observations from all life stages, including breeding butterflies, to the Monarch Milkweed Mapper or via the project portal in the iNaturalist smartphone app.		District
REC-6- LSA Notification and CEQA	CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the District for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the District consider CDFW's comments and incorporate the mitigation measures and	Prior to finalizing Project CEQA document	District

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	revisions recommended in this letter into the Project’s final environmental document.		
REC-7- Mountain Lion	<p>To prevent human-wildlife conflicts on campus and to keep mountain lions wild, the District should consider the following as part of campus design and campus management and maintenance in perpetuity:</p> <ul style="list-style-type: none"> • Never feed deer or other wildlife; it is illegal to feed deer and other big game in California and it will attract mountain lions; • Deer-proof campus landscaping by avoiding plants that deer like to eat; • Trim brush to reduce hiding places for mountain lions; • Install motion-sensitive lighting around the campus; • Increase site permeability through permeable fence designs to limit physical obstructions to wildlife movement; and, • Make a commitment to educate students, faculty, and staff about mountain lion. <p>Please visit Keep Me Wild for additional information, as well as Preventing Conflicts with Mountain Lions. For information wildlife friendly fences, please see A Landowner’s Guide to Wildlife Friendly Fences.</p>	Prior to finalizing Project design and plan	District
REC-8- Nesting Birds	<p>The District should consider revising BIO-2 by incorporating the <u>underlined</u> language:</p> <p>Pre-Construction Nesting Bird Surveys: To the extent possible, vegetation removal shall be conducted during the non-breeding season (i.e., September 1 to January 31) in order to minimize direct impacts on nesting birds and raptors. If construction</p>	Within three days prior to the initiation of construction	District

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	<p>activities would be initiated during the breeding season for nesting birds/raptors (i.e., February 1–August 31), a pre-construction survey will be conducted by a qualified Biologist within three days prior to the initiation of construction (including demolition of structures). If construction activities are delayed or suspended for more than 7 days during the breeding season, nesting bird surveys shall be repeated before activities can begin or restart. In addition, nesting bird surveys shall be conducted prior to starting phased Project construction and activities. The absence of nesting bird and raptors shall be considered valid only until the following breeding season [...]</p>	<p>Prior to starting phased Project construction and activities</p>	
<p>REC-9- Landscaping</p>	<p>The District should avoid using non-native, invasive plants for landscaping and restoration, particularly any species listed as ‘Moderate’ or ‘High’ by the California Invasive Plant Council. The District should use native species found in naturally occurring vegetation communities within or adjacent to District property. In addition, the District should use species of trees and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. 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 for southern California. The Audubon Society’s Plants for Birds, California Native Plant Society’s Gardening and Horticulture, and Xerces Society’s Pollinator-Friendly Native Plant Lists webpages provide information on native plant species that invite insects, pollinators, and birds.</p>	<p>Prior to finalizing Project design and plan</p>	<p>District</p>
<p>REC-10- Fencing</p>	<p>Any fencing used during and after the Project should be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. Metal fence stakes used on the Project site should</p>	<p>Prior to/During Project construction and activities</p>	<p>District</p>

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	be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.		
REC-11-Data	<p>The District should ensure sensitive and special status species data has been properly submitted to the California Natural Diversity Database. To submit information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Releve Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.</p> <p>The District should provide CDFW with confirmation of data submittal.</p>	Prior to/after Notification pursuant to Fish and Game Code section 1600 et seq.	District
REC-12-Mitigation and Monitoring Reporting Plan	The District should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter.	Prior to finalizing CEQA document	District