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Feb 01 2021

January 29, 2021

STATE CLEARINGHOUSE

Mr. Nader Heydari
City of Thousand Oaks
2100 Thousand Oaks Boulevard
Thousand Oaks, CA 91362
NHeydari@toaks.org

Subject: Unit Y2 Wastewater Interceptor Rehabilitation Project, Draft Mitigated Negative Declaration, SCH# 2020120402, Ventura County

Dear Mr. Heydari:

The California Department of Fish and Wildlife (CDFW) has reviewed the City of Thousand Oaks' (City; Lead Agency) Draft Mitigated Negative Declaration (MND) for the Unit Y2 Wastewater Interceptor Rehabilitation 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 & Game 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 (Public 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 & Game 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 & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 2 of 19

Project Description and Summary

Objective: The City is proposing to rehabilitate a portion of the Unit Y2 Interceptor wastewater line which transports municipal wastewater from the northeastern portion of the City and discharges to the Hill Canyon Treatment Plant (HCTP). The Unit Y2 Interceptor is composed of twin 18-inch diameter reinforced plastic mortar pipe. The Project is comprised of the following components:

- Improve approximately 1,350 linear feet of an existing access road between the HCTP and pipeline Station 14+50.
- Improve the existing meter station near the HCTP headworks (inlet).
- Install three new pressurized manholes (pipeline Stations 7+25, 13+48, 17+25).
- Remove an existing clean-out structure at Station 13+48 and construct the new manhole at that location.
- Line the two existing 18-inch diameter pipes with approximately 2,240 feet each of cured-in-place pipe (pipeline Station 1+40 to 23+65).
- Remove above-ground portions and abandon in place underground portions of four existing clean-out structures (pipeline Stations 5+30, 10+00, 15+50, 21+50).

Construction of Unit Y2 improvements is expected to take eight months but is unlikely to be continuous. Work would be scheduled to avoid the wet season when high stream flows may impede crossing North Fork Arroyo Conejo (NFAC) and other work tasks. The majority of Project activities would be performed between the hours of 7 a.m. and 4:30 p.m., Monday through Friday. However, short-term night work and/or weekend work may be considered for bypass operations and tie-ins to the existing interceptor piping/structures.

Access road improvements would be completed first to facilitate access to/from work areas and staging areas. Construction materials would be staged in a clearing by the HCTP north gate (near pipeline Station 2+00 to 4+00) and/or the Indian Council Campground (near pipeline Station 17+00).

Transportation of pipe rehabilitation/construction materials would require about 100 truck trips with a maximum of 10 truck trips on a peak day. Equipment and vehicles would access the Project site from the HCTP north gate and the existing access road/trail from Avenida de los Arboles (Mesa Trail, Teepee Trail). The access road/trail from Avenida de los Arboles has been used for previous construction projects and is routinely used by City and Conejo Open Space Conservation Agency maintenance vehicles.

Hiking trail closures (portions of the Lizard Rock Trail, Wildwood Canyon Trail, and Eagle Point Trail) would be required for up to 14 weeks during construction of Unit Y2 improvements. Trail closures may be intermittent depending on the location of ongoing construction work. Trails would be re-opened on weekends when feasible depending on the nature and extent of construction activities in progress. In addition, portions of the Mesa Trail and Teepee Trail may be closed for short periods (few hours) during mobilization and demobilization of construction equipment and vehicles and major materials deliveries.

No change in the existing operation and maintenance of the Unit Y2 Interceptor is proposed.

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 3 of 19

However, the access road would require maintenance which may include removal of woody debris, installation of additional rock (near pipeline Station 11+00), and minor earthwork (less than 50 cubic yards) following major storm events, and occasional tree trimming.

Location: The Project is located within the Wildwood Open Space, a 1,732-acre area located in the northwestern portion of Thousand Oaks, which is owned by the Conejo Open Space Conservation Agency and the Conejo Recreation and Park District.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the County in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures 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) (see Attachment A).

Comment #1: Impacts to California Species of Special Concern

Issue: CDFW is concerned that Project-related activities may result in significant impacts to the following Species of Special Concern (SSC):

- *Fish:* arroyo chub (*Gila orcuttii*).
- *Reptiles:* coastal whiptail (*Aspidoscelis tigris stejnegeri*), southern California legless lizard (*Anniella stebbinsi*), two-striped garter snake (*Thamnophis hammondi*), western pond turtle (*Emys marmorata*), and coast horned lizard (*Phrynosoma blainvillii*).
- *Mammals:* San Diego desert woodrat (*Neotoma lepida intermedia*).

Specific impact: Project construction and related activities, directly or through habitat modification, may result in direct injury or mortality of SSC.

Why impact would occur: Project implementation includes grading, vegetation clearing, road improvements, and other activities may result in direct mortality, population declines, or local extirpation of SSC fish, reptile, and mammal species.

Evidence impact would be significant: An **SSC** 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-listed, meets the State definition of threatened or endangered but has not formally been listed;

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 4 of 19

- is experiencing, or formerly experienced, serious (nonscyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and,
- 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 status (CDFW 2020c).

Project construction and activities, directly or through habitat modification, may result in direct mortality, reduced reproductive capacity, population declines, or local extirpation of SSC. CEQA provides protection not only for State and federally 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, § 15065). Take of SSC could require a mandatory finding of significance by the City, (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Pursuant to the [California Code of Regulations, title 14, section 650](#), the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2020d). A Lake and Streambed Alteration (LSA) Agreement may provide similar take or possession of species as described in the conditions of the agreement.

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).

Mitigation Measure #2: The City should retain a qualified biologist(s) with experience surveying for or is familiar with the life history of each of the species mentioned above. The qualified biologist should conduct focused surveys for SSC and suitable habitat no more than one month from the start of any ground-disturbing activities or vegetation removal where there may be impacts to SSC. In addition, the qualified biologist should conduct daily biological monitoring during any activities involving vegetation clearing or modification of natural habitat. Positive detections of SSC and suitable habitat at the detection location should be mapped and photographed. The qualified biologist should provide a summary report of SSC surveys to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal. Depending on the survey results, a qualified biologist should develop species-specific mitigation measures for implementation during the Project.

Mitigation Measure #3: Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 5 of 19

proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be submitted to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal.

Mitigation Measure #4: The City, in consultation with a qualified biologist, should prepare a worker environmental awareness training. The qualified biologist should communicate to workers that upon encounter with an SSC (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so.

Mitigation Measure #5: 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. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. 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 #2: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement

Issue: CDFW agrees with the City that streams subject to Fish and Game Code, section 1600 *et seq.* will be impacted by the proposed Project.

Specific Impact: The Project proposes to temporarily modify NFAC. Modification of NFAC may result in the loss of streams and associated watershed function and biological diversity. Frequent work on or near streams is likely to diminish on site and downstream water quality. Altering these drainage features will also alter the hydrologic and geomorphic processes and emergent fish and wildlife downstream. Project activities may also impact tributaries that occur upstream, outside of the Project boundary, where hydrologic connectivity occurs.

Why Impact Would Occur: The Project will directly impact NFAC, which would result in the potential loss of natural drainage patterns, soils, and associated vegetation. These actions may also result in changes to the stream, altering hydrologic and geomorphic processes that may impact plant and wildlife species.

Evidence Impact Would Be Significant: The Project may substantially adversely affect the existing stream patterns of the Project site through the alteration or diversion of streams, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project. Debris, soil, silt, sawdust, rubbish, raw cement/concrete, or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous or deleterious to aquatic life, wildlife, or riparian habitat resulting from Project related activities may enter the stream.

Recommended potentially feasible mitigation measure(s)

Mitigation Measure #1: The Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW shall determine whether an LSA Agreement is required prior to

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 6 of 19

conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at <https://www.wildlife.ca.gov/conservation/lisa>.

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 of the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

Mitigation Measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement, or restoration, and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #3 CDFW recommends fully avoiding impacts to waters and riparian/wetland vegetation communities. If feasible, CDFW recommends redesigning the Project to avoid impacts to NFAC, which support sensitive vegetation communities. Design alternatives should attempt to retain as much surface flow and natural hydrologic processes as possible. CDFW recommends taking an inter-disciplinary approach to involve landscape architects, engineers, and wildlife biologists, and hydrologists to develop design alternatives that could fully avoid or lessen impacts to waters and riparian/wetland vegetation communities.

Mitigation Measure #4: If impacts to streams is unavoidable, CDFW recommends that mitigation occur at a CDFW-approved bank. Mitigation bank credits should be purchased, approved, or otherwise fully executed prior to implementing Project-related ground-disturbing activities and prior to the County/City's issuance of grading permits.

Mitigation Measure #5: If credits at a CDFW-approved mitigation bank are not available, CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. Mitigation lands should be in the same watershed as the Project site and support in-kind vegetation. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities prior to the County/City's issuance of grading permits.

Mitigation Measure #6: If impacts to riparian habitat, such as arroyo willow thicket, mulefat thicket, and cattail marshes cannot be avoided, CDFW suggests mitigation should be achieved entirely on site if possible. CDFW recommends that impacts be mitigated at no less than 3:1. CDFW recommends that an on-site Habitat Mitigation and Monitoring Plan (HMMP) be developed. An HMMP should provide specific, detailed, and enforceable measures.

Mitigation Measure #7: CDFW recommends that all on-site mitigation sites for impacts to waters and riparian/wetland vegetation communities be protected in perpetuity from public

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 7 of 19

encroachment and structural intrusion. This should include all water features on site, including ephemeral and perennial bodies.

CDFW recommends the City fund a minimum of 10 years of initial restoration and maintenance. If applicable, mitigation lands (NFAC, surrounding natural areas) should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities and prior to the County/City's issuance of grading permits.

Recommendation #1: As part of the LSA Notification process, CDFW requests a map showing features potentially subject to CDFW's broad regulatory authority over streams. CDFW also requests a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.

Comment #3: Impacts to Non-Game Mammals and Wildlife

Issue: Wildlife may still move through the Project site during the daytime or nighttime. CDFW is concerned that any wildlife potentially moving through or seeking temporary refuge on the Project site may be directly impacted during Project activities and construction.

Specific impacts: Project activities and construction equipment may directly impact wildlife and birds moving through or seeking temporary refuge on site. This could result in wildlife and bird mortality. Furthermore, depending on the final fencing design, the Project may cumulatively restrict wildlife movement opportunity.

Why impacts would occur: Direct impacts to wildlife may occur from: ground disturbing activities (e.g., staging, access, excavation, grading); wildlife being trapped or entangled in construction materials and erection of restrictive fencing; and wildlife could be trampled by heavy equipment operating in the Project site.

Evidence impact would be significant: Mammals occurring naturally in California are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & Game Code, § 4150; Cal. Code of Regs, § 251.1).

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the following four mitigation measures to avoid and minimize direct impacts to wildlife during Project construction and activities.

Mitigation Measure #1: If fencing is proposed for use during construction or during the life of the Project, fences shall be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Fencing shall also be minimized so as not to restrict free wildlife movement through habitat areas.

Mitigation Measure #2: To avoid direct mortality, a qualified biological monitor shall be on site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 8 of 19

Project-related construction activities. Salvaged wildlife of low mobility shall be removed and placed onto adjacent and suitable (i.e., species appropriate) habitat out of harm's way.

It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Program impacts associated with habitat loss.

Mitigation Measure #3: Grubbing and grading shall be done to avoid islands of habitat where wildlife may take refuge and later be killed by heavy equipment. Grubbing and grading shall be done from the center of the Project site, working outward towards adjacent habitat off site where wildlife may safely escape.

Comment #4: Impacts to Nesting Birds

Issue: Project activities, such as road improvements, vegetation clearing, removing/replacing structures, and drainage system upgrades are likely to occur where birds may nest and may impact nesting birds.

Specific impact: Project construction and related activities may result in increased nesting mortality due to nest abandonment or decreased feeding frequency. The Project may result in temporal or permanent loss of bird nesting habitat.

Why impacts would occur: Project activities occurring during the breeding season of nesting birds could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment in trees or buildings directly adjacent to where construction would occur. Construction of new facilities or upgrades to existing facilities could also lead to the loss of nesting habitat for sensitive bird species. Impacts could result from noise disturbances, increased human activity, dust, ground disturbing activities (e.g., staging, access, excavation, and grading), and vibrations caused by heavy equipment. The Project as proposed would clear/trim vegetation that could provide bird nesting habitat (e.g., ground cover and shrubs). The temporal or permanent loss of vegetation may substantially impact birds that could return to the Project site year after year (Figueira et al. 2020; Haas 1998). Site fidelity exhibited across the avian taxa reflects the benefits associated with previous knowledge of a particular location, likely improving territory acquisition, foraging efficiency, potential breeding partners, and predator avoidance (Figueira et al. 2020).

Evidence impacts would be significant: Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13) is prohibited under Fish and Game Code section 3513. The loss of occupied habitat or reductions in the number of sensitive and special status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW recommends that no construction occur from February 15 (January 1 for raptors) through August 31.

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 9 of 19

Mitigation Measure #2: CDFW recommends that a qualified avian biologist with survey experience conduct a thorough survey of all suitable nesting. Surveys should be completed no more than 7 days prior to the beginning of any Project-related ground-disturbing activities or vegetation removal. Surveys should be conducted in the immediate work/disturbance area plus a 500-foot buffer. Positive detections should be reported to CDFW prior to the any Project-related ground disturbing activities or vegetation removal.

Mitigation Measure #3: If nesting birds or raptors are identified, a qualified biologist should determine the nesting status and set up species-appropriate no-work buffers for construction activities. CDFW recommends the following minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active CESA-listed bird nests. No Project activities should be allowed inside these buffers until the qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. These buffers should be increased if needed to protect the nesting birds. Buffers should be clearly delineated and marked around the active nest site as directed by the qualified biologist. Temporary fencing and signage should be maintained for the duration of the Project as determined by the qualified biologist. A qualified biologist should advise workers of the sensitivity of the buffered areas. Workers should be advised not to work, trespass, or engage in activities that would disturb nesting birds near or inside the buffer.

Mitigation Measure #4: It should be noted that the temporary exclusion of Project activities within nesting buffers during nesting season may not constitute effective mitigation for the purposes of offsetting Project impacts associated with loss of breeding and nesting habitat. Effective mitigation for impacts to nesting habitat for birds requires structurally (e.g., ground cover, subshrubs, shrubs, and trees) and species diverse vegetation as a part of habitat restoration.

Additional mitigation, separate from impacts to vegetation communities, would be necessary to compensate for the temporal or permanent loss of occupied nesting habitat within the Project site. CDFW recommends the qualified biologist/City consult with CDFW to determine proper mitigation for impacts to occupied habitat. Mitigation would be based on acreage of impact and vegetation composition. Depending on the status of the bird species impacted, replacement of habitat acres should increase with the occurrence of an SSC. Replacement acres would further increase with the occurrence of a CESA-listed species.

Recommendation #1: Take under the ESA is more broadly defined than CESA; take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

Additional Recommendations

Alternatives. CDFW recommends the City consider an alternative that would fully avoid or minimize impacts to streams, sensitive plants and wildlife. CDFW recommends the City recirculate the environmental document after including alternative locations in order to foster meaningful public participation and informed decision making [CEQA Guidelines, §§ 15088.5, 15126.6(f)]. If the City concludes that no feasible alternative locations exist, or the use of alternative locations as a mitigation measures is infeasible, the City must disclose the reasons

Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 10 of 19

in the final environmental document and recirculate [CEQA Guidelines, §§ 15088.5(a)(3), 15126.6(f)(2)].

Fuel Modification. If the Project includes fuel modification, CDFW recommends that the final environmental include avoidance and mitigation measures for any fuel modification activities conducted within and adjacent to the Project area. A weed management plan should be developed for all areas adjacent to open space that will be subject to fuel modification disturbance. CDFW also recommends that any irrigation proposed in fuel modification zones drain back into the development and not onto natural habitat land as perennial sources of water allow for the introduction of invasive Argentine ants.

Mitigation and Monitoring Reporting Plan. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the County 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). A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

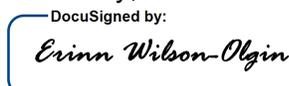
Filing Fees

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 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 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 Baron Barrera, Environmental Scientist, at Baron.Barrera@wildlife.ca.gov

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
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Mr. Nader Heydari
City of Thousand Oaks
January 29, 2021
Page 11 of 19

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GAVIN NEWSOM, Governor
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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Impacts to California Species of Special Concern	<p>Pursuant to the California Code of Regulations, title 14, section 650, the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2020d). An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.</p> <p>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).</p>	Prior to/After Project construction and activities	Lead Agency/ Applicant
MM-BIO-2- Impacts to California	The City should retain a qualified biologist(s) with experience surveying for or is familiar with the life history of each of the species mentioned above. The qualified biologist should conduct	Prior to Project	Lead Agency/ Applicant

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 13 of 19

Species of Special Concern	focused surveys for SSC and suitable habitat no more than one month from the start of any ground-disturbing activities or vegetation removal where there may be impacts to SSC. In addition, the qualified biologist should conduct daily biological monitoring during any activities involving vegetation clearing or modification of natural habitat. Positive detections of SSC and suitable habitat at the detection location should be mapped and photographed. The qualified biologist should provide a summary report of SSC surveys to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal. Depending on the survey results, a qualified biologist should develop species-specific mitigation measures for implementation during the Project.	construction and activities	
MM-BIO-3- Impacts to California Species of Special Concern	Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be submitted to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-4- Impacts to California Species of Special Concern	The City, in consultation with a qualified biologist, should prepare a worker environmental awareness training. The qualified biologist should communicate to workers that upon encounter with an SSC (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-5- Impacts to California	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. A formal report should be sent to	Prior to Project	Lead Agency/ Applicant

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 14 of 19

Species of Special Concern	CDFW and the City within three calendar days of the incident or finding. 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.	construction and activities	
MM-BIO-6- Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement	<p>The Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish and Game Code. Based on this notification and other information, CDFW shall determine whether an LSA Agreement is required prior to conducting the proposed activities. A notification package for an LSA may be obtained by accessing CDFW’s web site at https://www.wildlife.ca.gov/conservation/lsa.</p> <p>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 of the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document should fully identify the potential impacts to streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p>	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-7- Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement	Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement, or restoration, and/or protection and management of mitigation lands in perpetuity.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-8- Impacts to Aquatic and	CDFW recommends fully avoiding impacts to waters and riparian/wetland vegetation communities. If feasible, CDFW recommends redesigning the Project to avoid impacts to NFAC,	Prior to Project	Lead Agency/ Applicant

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 15 of 19

Riparian Resources; Lake and Streambed Alteration Agreement	which support sensitive vegetation communities. Design alternatives should attempt to retain as much surface flow and natural hydrologic processes as possible. CDFW recommends taking an inter-disciplinary approach to involve landscape architects, engineers, and wildlife biologists, and hydrologists to develop design alternatives that could fully avoid or lessen impacts to waters and riparian/wetland vegetation communities.	construction and activities	
MM-BIO-9- Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement	If impacts to streams is unavoidable, CDFW recommends that mitigation occur at a CDFW-approved bank. Mitigation bank credits should be purchased, approved, or otherwise fully executed prior to implementing Project-related ground-disturbing activities and prior to the County/City's issuance of grading permits.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-10- Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement	If credits at a CDFW-approved mitigation bank are not available, CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. Mitigation lands should be in the same watershed as the Project site and support in-kind vegetation. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities prior to the County/City's issuance of grading permits.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-11- Impacts to Aquatic and Riparian Resources; Lake and	If impacts to riparian habitat, such as arroyo willow thicket, mulefat thicket, and cattail marshes cannot be avoided, CDFW suggests mitigation should be achieved entirely on site if possible. CDFW recommends that impacts be mitigated at no less than 3:1. CDFW recommends that an on-site Habitat Mitigation and Monitoring Plan	Prior to Project construction and activities	Lead Agency/ Applicant

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 16 of 19

Streambed Alteration Agreement	(HMMP) be developed. An HMMP should provide specific, detailed, and enforceable measures.		
MM-BIO-12- Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement	<p>CDFW recommends that all on-site mitigation sites for impacts to waters and riparian/wetland vegetation communities be protected in perpetuity from public encroachment and structural intrusion. This should include all water features on site, including ephemeral and perennial bodies.</p> <p>CDFW recommends the City fund a minimum of 10 years of initial restoration and maintenance. If applicable, mitigation lands (NFAC, surrounding natural areas) should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to implementing Project-related ground-disturbing activities and prior to the County/City's issuance of grading permits</p>	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-13- Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement	As part of the LSA Notification process, CDFW requests a map showing features potentially subject to CDFW's broad regulatory authority over streams. CDFW also requests a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-14- Impacts to Non-Game Mammals and Wildlife	If fencing is proposed for use during construction or during the life of the Project, fences shall be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Fencing shall also be minimized so as not to restrict free wildlife movement through	Prior to Project construction and activities	Lead Agency/ Applicant

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 17 of 19

	habitat areas.		
MM-BIO-15- Impacts to Non- Game Mammals and Wildlife	<p>To avoid direct mortality, a qualified biological monitor shall be on site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. Salvaged wildlife of low mobility shall be removed and placed onto adjacent and suitable (i.e., species appropriate) habitat out of harm's way.</p> <p>It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Program impacts associated with habitat loss.</p>	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-16- Impacts to Non- Game Mammals and Wildlife	Grubbing and grading shall be done to avoid islands of habitat where wildlife may take refuge and later be killed by heavy equipment. Grubbing and grading shall be done from the center of the Project site, working outward towards adjacent habitat off site where wildlife may safely escape.	Prior to Project construction and activities	Lead Agency/ Applicant
MM-BIO-17- Impacts to Nesting Birds	CDFW recommends that no construction occur from February 15 (January 1 for raptors) through August 31.	Prior to/During Project construction and activities	Lead Agency/ Applicant
MM-BIO-18- Impacts to Nesting Birds	CDFW recommends that a qualified avian biologist with survey experience conduct a thorough survey of all suitable nesting. Surveys should be completed no more than 7 days prior to the beginning of any Project-related ground-disturbing activities or vegetation removal. Surveys should be conducted in the immediate work/disturbance area plus a 500-foot buffer. Positive detections should be reported to CDFW prior to the any Project-related ground disturbing activities or vegetation removal.	Prior to/After Project construction and activities	Lead Agency/ Applicant

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 18 of 19

<p>MM-BIO-19- Impacts to Nesting Birds</p>	<p>If nesting birds or raptors are identified, a qualified biologist should determine the nesting status and set up species-appropriate no-work buffers for construction activities. CDFW recommends the following minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active CESA-listed bird nests. No Project activities should be allowed inside these buffers until the qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. These buffers should be increased if needed to protect the nesting birds. Buffers should be clearly delineated and marked around the active nest site as directed by the qualified biologist. Temporary fencing and signage should be maintained for the duration of the Project as determined by the qualified biologist. A qualified biologist should advise workers of the sensitivity of the buffered areas. Workers should be advised not to work, trespass, or engage in activities that would disturb nesting birds near or inside the buffer.</p>	<p>Prior to/After Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p>MM-BIO-20- Impacts to Nesting Birds</p>	<p>It should be noted that the temporary exclusion of Project activities within nesting buffers during nesting season may not constitute effective mitigation for the purposes of offsetting Project impacts associated with loss of breeding and nesting habitat. Effective mitigation for impacts to nesting habitat for birds requires structurally (e.g., ground cover, subshrubs, shrubs, and trees) and species diverse vegetation as a part of habitat restoration.</p> <p>Additional mitigation, separate from impacts to vegetation communities, would be necessary to compensate for the temporal or permanent loss of occupied nesting habitat within the Project site. CDFW recommends the qualified biologist/City consult with CDFW to determine proper mitigation for impacts to occupied habitat. Mitigation would be based on acreage of impact and vegetation composition. Depending on the status of the bird species impacted, replacement of habitat acres should increase</p>	<p>Prior to/After Project construction and activities</p>	<p>Lead Agency/ Applicant</p>

Mr. Nader Heydari
 City of Thousand Oaks
 January 29, 2021
 Page 19 of 19

	with the occurrence of an SSC. Replacement acres would further increase with the occurrence of a CESA-listed species.		
MM-BIO-21- Impacts to Nesting Birds	Take under the ESA is more broadly defined than CESA; take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.	After Project construction and activities	Lead Agency/ Applicant
REC-1-Fuel Modification	If the Project includes fuel modification, the County should provide avoidance and mitigation measures for any fuel modification activities conducted within and adjacent to the Project area. A weed management plan should be developed for all areas adjacent to open space that will be subject to fuel modification disturbance. The County should also ensure that any irrigation proposed in fuel modification zones drain back into the development and not onto natural habitat land as perennial sources of water allow for the introduction of invasive Argentine ants.	Prior to Project construction and activities	Lead Agency/ Applicant