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August 18, 2023

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Subject: Albers Ranch Project, Draft Environmental Impact Report,  
SCH No. 2021100264, City of Antioch, Contra Costa County

Dear Kevin Scudero:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the City of Antioch (City) for the Albers Ranch Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the draft EIR to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the Project.

## **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## **REGULATORY AUTHORITY**

### **California Endangered Species Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures,

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

### **Lake and Streambed Alteration**

Pursuant to Fish and Game Code section 1600 et seq., an LSA notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian; or deposit or dispose of material where it may pass into a river, lake or stream. Figure 11 (Biotic Habitats and Land Uses) of the Albers Ranch Project Initial Study, submitted as part of the draft EIR, depicts impacts to streams that would occur as part of the Project. Therefore, the Project proponent should submit a 1602 notification covering all activities subject to Fish and Game Code 1602 authority. CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the Final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

### **Fully Protected Species**

Fully Protected species, such as white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*), may not be taken or possessed at any time and no licenses or permits may be issued for their take associated with housing development projects unless they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan with take authorization for the species (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

### **Raptors and Other Nesting Birds**

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Hillside Group, LLC., Post Office Box 458, Brentwood, CA 94513

### **Project Description**

The proposed Project includes development of a single-family residential subdivision with 294 lots, ranging in sizes from a minimum of 3,600 square feet to a maximum of

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9,000 square feet. Of the 96.5-acre site, 31.2 acres are proposed for development of single-family residential lots, 13.2 acres would be developed with private streets, and 49.1 acres would be used for parks, open space, recreation, and water quality/detention purposes. Three acres are proposed for future development of an assisted living facility and neighborhood commercial land uses upon issuance of a Conditional Use Permit (CUP). The remaining 49.1 acres of the site would be retained as open space.

The area to the east of the site is planned for future development with the Creekside/Vineyards at Sand Creek Project, which would include extension of a new roadway, Hillcrest Avenue, to the eastern site boundary. Primary access to the proposed Project would be provided by a new on-site roadway connecting to the planned Hillcrest Avenue extension east of the site. The connection to Hillcrest Avenue is contingent upon construction of the Creekside/Vineyards at Sand Creek Project.

**Location:** The Project is located east of the Deer Valley Road/Deer Hill Lane intersection in the City of Antioch, Contra Costa County. The Project site is bordered by the City of Antioch/Contra Costa County line to the south. The City of Antioch/City of Brentwood limit is further east of the site. The site is identified by Assessor's Parcel Numbers 057-042-006 and 057-050-021.

## ENVIRONMENTAL SETTING

The Project area is undeveloped, consisting primarily of grassland vegetation. A reach of Sand Creek, a tributary to Marsh Creek, extends through the western portion of the Project site. The majority of the surrounding area has been approved for residential development. Within the City of Antioch, the area to the north of the site is approved for development with the Aviano Project, the area to the northeast of the site is approved for development with the Promenade/Vineyard at Sand Creek Project, and the area to the east is approved for development for the Creekside/Vineyards at Sand Creek Project.

According to Biogeographic Information and Observation System (BIOS) records, the Project site contains positive detections of several special-status species and has the potential to support numerous special-status species and their associated habitat. Species that can be considered to be endangered, rare or threatened as defined in CEQA Guidelines section 15380, with potential to occur on-site include, but are not limited to: California tiger salamander (*Ambystoma californiense*; FT<sup>2</sup>, ST), California red-legged frog (*Rana draytonii*; FT, SSC), western pond turtle (SSC), burrowing owl (*Athene cunicularia*), golden eagle (SFP), Swainson's hawk (*Buteo swainsonii*; ST),

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<sup>2</sup> FE species listed as Federally Endangered; FT = species listed as Federally Threatened; SE = species listed as State Endangered; ST = species listed as State Threatened; SFP = species designated as State Fully Protected; SSC = species designated as a State Species of Special Concern.

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tricolored blackbird (*Agelaius tricolor*; ST), American badger (*Taxidea taxus*), Brewer's western flax (*Hesperolinon breweri*; 1B.2<sup>3</sup>), brittlescale (*Atriplex depressa*; 1B.1), alkali milk-vetch (*Astragalus tener* gray var. *tener*; 1B.2), bearded popcorn flower (*Plagiobothrys hystriculus*; 1B.1), California alkali grass (*Puccinellia simplex*; 1B.2), Congdon's tarplant (*Hemizonia parryi congdonii*; 1B) Contra Costa goldfields (*Lasthenia conjugens*; FE), Diamond-petaled California poppy (*Eschscholzia rhombipetala*; 1B.1), Hoover's cryptantha (*Cryptantha hooveri*; 1A), San Joaquin spearscale (*Extriplex joaquinana*; 1B.2), shining navarretia (*Navarretia nigeliformis* radians; 1B), showy golden madia (*Madia radiata*; 1B.1).

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends, CDFW concludes that an EIR is appropriate for the Project. Please see Attachment 1 Draft Mitigation and Monitoring Reporting Plan outlining the mitigation measures recommended by CDFW below.

### COMMENT 1: Species Survey Timing and Results

Focused surveys for special-status species using appropriate protocols should be conducted by qualified biologists at the Project site prior to any Project-related construction no earlier than seven (7) days prior to start of work, unless otherwise specified in this comment letter. Survey results should be sent to CDFW for review and acceptance.

### COMMENT 2: California Tiger Salamander

**Issue:** While Measure IV-7 of the draft EIR acknowledges the potential for California tiger salamander to be present on-site, presence is not assumed and only pre-construction level surveys located within the wetland complex on the easternmost portion of the site are required to determine if mitigation is warranted. The draft EIR indicates if breeding habitat is not identified on-site, the Project would not pursue mitigation. Based on California tiger salamander life history, it is highly unlikely a salamander would be found during pre-construction surveys unless the surveys

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<sup>3</sup> CNPS Plant Ranks: 1A = Presumed extinct in California, 1B = Rare, Threatened, or Endangered in California and Elsewhere. CNPS Threat Ranks: 0.1 = species considered to be seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat), 0.2 = species considered to be moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat).

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included actions such as, burrow excavation, pitfall traps and drift fencing, as authorized under CESA. California tiger salamanders spend the majority of their lives underground in burrows created by fossorial mammals. There is one extant observation of California tiger salamander located on the southwest portion of the Project site. It is important to note even if wetland habitat on the Project site did not provide suitable California tiger salamander breeding habitat, the upland area on-site is directly connected to open adjacent land with visible evidence of the existence of wetlands and ponds that may be used as breeding habitat (California Natural Diversity Database (CNDDDB) Accessed July 2023). California tiger salamander are able migrate up to 1.3 miles from a breeding pond to upland habitat to aestivate. Therefore, the evaluation as written is not adequate.

**Recommendations:** Due to the Project location's close proximity to known California tiger salamander breeding and upland habitats, the overlapping California tiger salamander documented occurrence and appropriate habitat presence on-site, CDFW advises that the Project proponent obtain a CESA Permit (pursuant to Fish and Game Code Section 2080 et seq.) in advance of Project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts; and should fully describe a robust mitigation, monitoring and reporting program. As mentioned above, if the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit. More information on the CESA permitting process and protocol survey procedures can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA> or <https://www.wildlife.ca.gov/Conservation/Survey-Protocols>.

CDFW recommends consulting with the U.S. Fish and Wildlife Service (USFWS) to comply with federal Endangered Species Act (ESA) requirements.

### **COMMENT 3: California Red-legged Frog**

**Issue:** Project activities have the potential to directly and/or indirectly impact California red-legged frog, and/or their habitat. According to BIOS, there is an extant detection of California red-legged frog on the border of the Project site (CNDDDB, accessed July 2023). Although Measure IV-8(b) requires pre-construction surveys, there are no specific details regarding how the survey should be conducted to ensure the frogs are identified if present on-site. Additionally, the measure states "if breeding habitat is planned to be removed, the applicant shall comply with the provisions of the federal ESA and shall obtain take authorization from the USFWS". This measure does not address removal of upland habitat and it does not clearly define California red-legged frog breeding habitat. Therefore, the measure as written is inadequate.

California red-legged frog require a variety of habitats, including aquatic breeding habitats and upland dispersal habitats. Breeding sites of the species are in aquatic

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habitats including pools and backwaters within streams and creeks, ponds, marshes, springs, sag ponds, dune ponds and lagoons. Additionally, California red-legged frog frequently breed in artificial impoundments such as stock ponds (USFWS 2002). Breeding sites are generally found in deep, still, or slow-moving water (greater than 2.5 feet) and can have a wide range of edge and emergent cover amounts. California red-legged frog can breed at sites with dense shrubby riparian or emergent vegetation, such as cattails (*Typha* sp.) or overhanging willows (*Salix* sp.) or can proliferate in ponds devoid of emergent vegetation (i.e., stock ponds). California red-legged frog habitat includes nearly any area within one to two miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and upland sheltering habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2017b).

Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to the species (Thompson et al. 2016; USFWS 2017b). Therefore, if California red-legged frog is present in the Project area and would be impacted, Project impacts to California red-legged frog would be potentially significant.

**Recommendations:** For an adequate environmental setting and to reduce potential impacts to California red-legged frog to less-than-significant, CDFW recommends the following mitigation measure:

Within 48 hours prior to the commencement of ground-disturbing activities, the Project area and nearby vicinity, including a minimum 500-foot radius surrounding the Project area, shall be assessed by a qualified biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows. The results of the habitat feature assessment shall be submitted to CDFW for written acceptance prior to starting Project activities. Habitat features shall be flagged for avoidance to the extent feasible. If California red-legged frogs are encountered during the assessment or Project activities, the Project shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the Project. If California red-legged frog is encountered or the qualified biologist believes that California red-legged frog is likely to occur in the Project area, the Project shall consult with USFWS pursuant to the federal ESA. All California red-legged frog upland and breeding habitat should be considered and evaluated when consulting with USFWS for take authorization.

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#### **COMMENT 4: Western Pond Turtle**

**Issue:** As indicated in the draft EIR, western pond turtle have the potential to occur in the Project site. Western pond turtle are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500-meter have also been reported. Measure IV-9 only requires a 50-foot buffer from the active nest, without consideration to preventing nest reestablishment during the Project phases. Without appropriate avoidance and minimization measures for western pond turtle, potentially significant impacts associated with Project activities include nest destruction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

**Recommendations:** CDFW recommends that the draft EIR include a measure requiring a qualified biologist to conduct focused surveys for potential western pond turtle nesting habitat prior to each phase of the Project. If nesting habitat is identified then to exclude any female western pond turtle from laying eggs within a development phase of the Project, exclusion fencing should be placed prior to the egg-laying season (March through August). Exclusion fencing should be designed to encompass each development phase and maintained weekly until construction activities have been completed.

Additionally, CDFW recommends that if any western pond turtle are discovered at the site immediately prior to or during Project activities, they should be allowed to move out of the area of their own accord. If a western pond turtle is unable to independently move out of the Project area, a qualified biologist should relocate WPT out of harm's way in habitat similar to where it was found.

#### **COMMENT 5: Alameda Whipsnake**

**Issues:** The draft EIR indicates there is no suitable habitat on-site for Alameda whipsnake (*Masticophis lateralis euryxanthus*); however, it did not identify all habitat types which are present in the Project area potentially occupied by Alameda whipsnake and; therefore, does not fully disclose or analyze potential impacts. It also does not review surrounding land uses adjacent to the property that Alameda whipsnake may occupy. According to BIOS, there are two extant observations of Alameda whipsnake approximately 2.8 miles to the west of the Project site (CNDDDB Accessed August 2023).

Publicly available, peer-reviewed literature documents Alameda whipsnake use of the following habitats: annual grassland, oak savanna, oak-bay woodland, mixed evergreen forest, riparian, and areas with rock outcrop features. The Project site at minimum contains annual grassland and riparian features. It is unclear if other features exist based on aerial imagery review.

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**Recommendations:** CDFW recommends revising the draft EIR to evaluate all habitat types and assess the viability for containing Alameda whipsnake. Project construction may result in direct adverse effects including mortality of individuals. CDFW recommends that Project impacts such as the permanent destruction of Alameda whipsnake habitat and direct impacts associated with roadway mortalities be identified in a revised draft EIR. The draft EIR should also analyze cumulative impacts to the Alameda whipsnake due to fragmentation of habitat, permanent loss of habitat, and impacts associated with vehicle traffic on roadways. The draft EIR does not include measures to protect Alameda whipsnake, and therefore, fails to reduce permanent loss of Alameda whipsnake habitat to level of less-than-significant as it does not identify compensatory mitigation to offset this impact. CDFW recommends adding new measures addressing impact minimization and compensatory mitigation for Project impacts to Alameda whipsnake and their habitats to a less-than-significant level. If take of Alameda whipsnake cannot be fully avoided, then CDFW recommends the Project obtain Alameda whipsnake take coverage through an ITP issued by CDFW.

**COMMENT 6: Nesting Migratory Birds, including Nesting Raptors and Protected Birds**

**Issues:** Measures IV-5a and IV-5b would not adequately reduce impacts to nesting birds to a level of less-than-significant. The Measure does not include an adequate survey radius relative to nest sites or nest trees that could prevent potential impacts to species, especially with respect to raptors. Additionally, the measure does not provide adequate details about nest monitoring timeline and requirements to ensure the qualified biologist does not miss signs of disturbance and/or distress. Without an adequate protocol specified, Project related impacts to nesting birds could lead to significant impacts to nesting birds including, but not limited to, nest abandonment, nest failure, impacts to availability of forage, chick mortality and resultant population decline.

**Recommendations:** CDFW recommends the Final EIR incorporate the following revisions to language in Measures IV-5a and IV-5b to ensure that significant impacts to bird species resulting from the Project are mitigated to a level of less-than-significant.

Construction work should take place outside of the February 15 to September 15 bird nesting seasonal window to the maximum extent practicable. If construction is to be conducted during the nesting season, the Project applicant is responsible for ensuring that the Project does not result in any violation of the MBTA or Fish and Game Code. A qualified biologist will conduct focused pre-construction nesting bird surveys throughout the Project area no more than five days prior to the initiation of on-site Project-related activities. Surveys will be conducted in all potential habitat located at, and adjacent to, Project work sites and in staging and storage areas. The minimum survey radii surrounding the work area will be the following: (1) 250 feet for Passerines; (2) and 1,000 feet for raptors such as Buteo spp. In the event that there is a lapse in



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construction activities for seven days or more, a qualified biologist will conduct additional focused pre-construction nesting bird surveys in areas of potential habitat again before Project activities can be reinitiated. If an active nest is found, the qualified biologist may consult with CDFW if needed regarding appropriate action to comply with Fish and Game Code.

- **Active Nest Buffers.** Active nest sites and protective buffer zones will be designated as “ecologically sensitive areas” where no Project-related activities or personnel may enter (while occupied or in use for the season in the case of multi clutch bearing species) during the course of nesting bird season with the establishment of a fence barrier or flagging surrounding the nest site. The qualified biologist will determine the necessary buffer, in consultation with CDFW if needed, to protect nesting birds based on existing site conditions, such as construction activity, topography, and line of sight, and will increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors.
- **Active Nests.** A qualified biologist will observe any identified active nests prior to the start of any Project-related activities to establish a behavioral baseline of the adults and any nestlings. Once Project activities commence, all active nests will be continuously monitored by a qualified biologist to detect any signs of disturbance and behavioral changes as a result of the Project. In addition to direct impacts, such as nest destruction, nesting birds might be affected by noise, vibration, odors and movement of workers or equipment. If signs of disturbance and behavioral changes are observed, the qualified biologist will halt Project activities causing that change until they nestlings have fledged, and the nest is determined to be inactive.

#### **COMMENT 7: Burrowing owls**

**Issues:** The draft EIR acknowledges that Project has the potential to impact burrowing owl; however, Measure IV-4(b) only requires a pre-construction level survey no greater than 14 days prior to start of ground disturbing activities and within 24 hours prior to start of ground-disturbing activities. Please be advised that pre-construction surveys alone are inadequate to determine impacts to western burrowing owl and their habitat. burrowing owls may also use unnatural features such as debris piles, culverts and pipes for nesting, roosting or cover. If burrowing owls that may be impacted by the Project are not detected, the Project may result in reduced health and vigor, or mortality, of owls from direct impacts to occupied wintering habitat or from wintering burrow abandonment caused by auditory and visual disturbances (Klute et. al 2003). Burrowing owl is a California SSC and protected under Fish and Game Code sections 3503 and 3503.5 and the federal MBTA. Therefore, if wintering burrowing owls are present on or within

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1,640 feet of the Project site, Project impacts to burrowing owl would be potentially significant.

**Recommendation:** For an adequate environmental setting evaluation and to reduce impacts to burrowing owl to less-than-significant, CDFW recommends revising the draft EIR to include the following revised mitigation measure:

A qualified biologist shall conduct a habitat assessment for wintering burrowing owl, and surveys if habitat is present. The qualified biologist shall follow the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report) habitat assessment and survey methodology prior to Project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass a sufficient buffer zone to detect owls nearby that may be impacted, which shall be a minimum of 1,640 feet unless otherwise approved in writing by CDFW. Surveys shall include four non-breeding season surveys spread evenly throughout the nonbreeding season pursuant to the CDFW 2012 Staff Report. Time lapses between surveys or Project activities shall trigger subsequent surveys, as determined by a qualified biologist, including, but not limited to, a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.

Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site-specific conditions, and completed before Project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan prior to Project construction.

#### **COMMENT 8: Golden Eagle**

**Issue:** The draft EIR describes golden eagle being potentially present on-site. Measure IV-3 requires a pre-construction survey within 0.5 miles of the Project site. The measure indicates that biological monitoring would only be conducted if there is a golden eagle nest within 0.5 miles and the nest is within the line of sight from disturbance. Golden eagles are sensitive to both visual disturbances as well as noise disturbance alone, even with a full visual barrier. The species typically displays subtle behavioral changes

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signifying stress from noise and visual disturbances. These behavioral changes can easily be missed, so it is critical that any biologist conducting surveys have previous experience monitoring golden eagle nest behavior.

Additionally, the buffer would only be a maximum of 800 feet from nest to construction activities, which does not meet the 0.5-mile nest survey threshold. Golden eagle is listed as a Fully Protected species; therefore, take must be fully avoided. Measure IV-3 may not achieve full avoidance of impacts to golden eagle as currently written.

**Recommendations:** CDFW recommends revising the measure to incorporate following survey protocols per the *Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations* document:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83940>.

Surveys should be conducted by a qualified biologist with sufficient experience surveying and monitoring golden eagle. Golden eagles are known to spend 90 percent of their time within one mile of a nest; therefore, nest surveys should be completed at minimum within one mile the outer boundaries of Project related activities. Active golden eagle nests observed within one mile from Project activities should be monitored by a qualified biologist and a “no-work” buffer should be implemented until all young have fledged. CDFW and USFWS should be consulted to determine site-specific buffers and monitoring requirements to avoid premature fledging.

#### **COMMENT 9: Special-Status Plants**

**Issue:** The draft EIR recognizes that rare, threatened and/or endangered plant species may occur within the Project location, including, but not limited to: Contra Costa goldfields, alkali milk-vetch, heart scale, brittlescale, lesser salt scale, dwarf downingia, Jepson’s coyote-thistle, shining navarretia, bearded popcorn flower, California alkali grass, long-styled sand spurrey, San Joaquin spearscale, etc. Measure IV-4 of the draft EIR states that pre-construction botanical surveys will be conducted prior to start of ground-disturbing activities on the Project site. Relying solely on pre-construction level surveys is insufficient in evaluating presence of special-status plants. Additionally, according to BIOS, San Joaquin spearscale and Brewer’s western flax have been observed directly on the Project site, overlapping where proposed activities would take place (CNDDDB accessed July 2023).

Without conducting appropriate survey methodology and mitigation measures, the Project could potentially have a significant impact on special-status plant species. Potential impacts to special-status plants include inability to reproduce and direct mortality. Special-status plants are often narrowly distributed endemic species. They are susceptible to habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species. Therefore, there is

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high potential for the Project to have significant impacts to these species and their populations.

Due to the high potential for encountering special-status plants on-site, appropriate methodologies for species detection should be outlined and conducted well in advance of the anticipated start of construction. If CESA and federally listed plants that may be impacted by the Project go undetected, the Project may result in mortality of individuals from direct impacts or degradation of habitat adjacent to ground disturbance. CESA and federally listed plant mentioned above are considered endangered under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if CESA and federally listed plants are present on or directly adjacent to the Project site where they may be indirectly impacted, the Project may substantially reduce the number or restrict the range of these species, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommendations:** For an adequate environmental setting and to reduce impacts to CESA and federally listed plants to less-than-significant, CDFW recommends implementing the following additional measures related to botanical resources:

The Project shall submit to CDFW two years of completed botanical survey results and obtain CDFW's written approval of the results. The botanical survey results shall follow CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities. If CDFW is unable to accept the survey results, the Project applicant shall conduct additional surveys prior to initiation of Project activities or may assume presence of listed species. Please be advised that for CDFW to accept the results, they must be completed in conformance with CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering off-site hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of the above CESA listed plants that may be impacted by the Project, or the presence of these species is assumed, the Project applicant shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP.

CDFW agrees that a Mitigation and Monitoring Plan should be prepared and implemented prior to Project implementation if special-status plants are found during surveys. The draft EIR should outline which species of special-status plants will be impacted, and a well-developed, robust proposal for how the Project would be re-designed to avoid, minimize and/or mitigate impacts to those special-status plants. The applicant should provide a copy of the special-status plant survey results to CDFW for review and acceptance.

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### **COMMENT 10: Impacts to Sand Creek and Associated Riparian Habitat**

**Issues:** Sand Creek, and unnamed tributaries thereto, are within the Project area and would be both temporarily and permanently impacted by the Project. Pursuant to Fish and Game Code section 1602, an LSA Agreement would be required for any substantial modifications to Sand Creek and its floodplain and riparian corridor. Additional information can be found at <https://www.wildlife.ca.gov/Conservation/LSA>. Sand Creek is intermittent and highly incised. Currently, nearby reaches of Sand Creek are constrained to Stage 2 or 3 of the Stream Evolution Model (Cluer and Thorne, 2013). Development surrounding both sides of streams/creeks would permanently restrict the waterway's hydrologic and fluvial dynamics. Creation of additional impervious surfaces as a result of the development and associated infrastructure, all surrounding the creek, would result in additional channel incision, lowering of the streambed elevations and destabilize the streambanks. Hydraulic and hydromorphological assessment modeling should be performed to determine all anticipated changes to peak flow resulting from the Project (showing calculations), as well as anticipated effects that the large-scale land use changes the Project will have on the channel geometry. This analysis should include an estimate of appropriate setback distances between the development and creek necessary to avoid a future need to harden any destabilized creek banks as the channel evolves under future Project conditions.

**Recommendations:** There may be opportunities to move the channel to the more stable stream Stage 8 as described in Cluer and Thorne (2013).

CDFW recommends evaluating mechanisms that slow the channel's flow velocity through the Project site, and which encourage establishment of vegetation and biological activity, as well as sediment deposition to aggrade in the channel. This might be accomplished by elevating the existing channel grade to match the small inset terrace above the active channel, and/or by introducing nature-based techniques and structures to slow flow and capture sediment.

CDFW further recommends that Project develop and incorporate appropriate channel restoration actions to ensure the long-term stability of the channel's stream dynamics.

### **COMMENT 11: Project Phasing Evaluation**

**Issue:** Page 3-12 of the draft EIR acknowledges the Project will be constructed in two phases but does not provide details about the phasing other than that each phase would involve development of single-family homes in different neighborhoods. Project activities may have additional significant biological impacts due to Project's phasing over time. Projects that include multiple phases with different sections or parcels built out at different time periods may include whole-site or mass grading with separate sections or parcels developed at later dates. Delays or phasing of full buildout of a

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Project after initial mass grading over long periods of time negates the sufficiency of one-time-only pre-construction surveys and their validity becomes questionable over the lifetime of the Project. For example, if an area is left dormant for a season or two post-grading, grassland and scrub habitats or ground squirrel colonies can be quickly established. These elements then provide potential habitat for nesting birds and other wildlife. There is also the potential for habitat elements to develop and wildlife to occupy dormant housing lots where foundational infrastructure is in place.

**Recommendations:** CDFW recommends the draft EIR be revised to include a fully developed description of the Project's phasing and estimated timeframes from start of construction to complete buildout and require resurveys for biological resources. If the Project's timeframe from start of construction to complete build out includes breaks in construction longer than 15 days or periods of inactivity that could allow establishment of habitat elements such as ground squirrel burrows or vegetation, then impacts to wildlife that may use these habitat elements should be addressed in the draft EIR. CDFW recommends including in the draft EIR a mitigation measure that includes the following elements: 1) a qualified biologist shall conduct a wildlife survey and habitat assessment to determine potential wildlife and habitat elements present that may be utilizing the vacant sections and/or parcels prior to Project-related activities taking place when there is a break in these activities greater than 15-days; 2) if unbuilt or fallow sections and/or parcels are being utilized by wildlife, avoidance and minimization measures shall be specified to prevent impacts and mortality, 3) if impacts and "take" are not fully avoidable, additional compensatory mitigation shall be discussed and agreed upon with CDFW's approval prior to the re initiation of construction activities, and 4) if there is a break in these activities greater than 15 days, compliance checks by a qualified biologist are required to ensure habitat assessments, pre-construction surveys, and other biological mitigation measures in the draft EIR are being implemented.

#### **COMMENT 12: Maintaining Migration Corridors**

**Issues:** The Project will severely restrict wildlife movement through the Sand Creek area. Item 13, on page 4 of the First American Title 2<sup>nd</sup> Supplemental Report states in part, as follows: "Building setback line-no permanent structures shall be constructed within 50 feet; measured from the Toe of the Creek Bank". The proposed wildlife corridor will be surrounded on one side by development, fragmented by recreational features, and wildlife will be confined to a 50-foot-wide buffer area that is subject to significant human disturbance. In addition, there will be the potential for predation by domestic animals, human disturbance by bicyclists and hikers, trash in the creek, potential for deleterious substances to be released in the creek, and lighting disturbance. Small animals, such as amphibians, could be adversely impacted over time by these cumulative impacts to the creek. In addition, the creek corridor would be an insufficient corridor for San Joaquin kit fox, which prefers open space and grasslands.

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For many wildlife species sensitive to human disturbance, the recreational use and proximity to development would entirely preclude their use of Sand Creek as a movement corridor.

**Recommendation:** CDFW recommends that the draft EIR be revised to contemplate and fully evaluate an increase in the creek setback area greater than the proposed 50 feet or completely excluding recreation from this corridor.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the draft EIR to assist the City in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Mia Bianchi, Senior Environmental Scientist (Specialist), at (707) 815-8722 or [Mia.Bianchi@wildlife.ca.gov](mailto:Mia.Bianchi@wildlife.ca.gov); or Michelle Battaglia, Senior Environmental Scientist (Supervisory), at (707) 339-6052 or [Michelle.Battaglia@wildlife.ca.gov](mailto:Michelle.Battaglia@wildlife.ca.gov).

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Sincerely,

DocuSigned by:  
  
Erin Chappell  
B77E9A6211EF486  
Erin Chappell  
Bay Delta Region  
Regional Manager

Attachment: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021100264)

## REFERENCES

- California Department of Fish and Wildlife (formerly California Department of Fish and Game). 2012. Staff Report on Burrowing Owl Mitigation. Available online at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>.
- California Department of Fish & Wildlife. 2021. California Natural Diversity Database (CNDDB) Rarefind Electronic database. Sacramento, CA. Search of U.S. Geological Survey 7.5-minute quadrangles. Antioch South. Accessed November 2023.
- Cluer, B., and Thorne, C. (2013). A Stream Evolution Model Integrating Habitat and Ecosystem Benefits, Incorporating Space-Time Substitution. *River Research and Applications*, 30(2). <https://doi.org/10.1002/rra.2631>.
- Klute, D. S., L. W. Ayers, M. T. Green, W. H. Howe, S. L. Jones, J. A. Shaffer, S. R. Sheffield, and T. S. Zimmerman. 2003. Status Assessment and Conservation Plan for the Western Burrowing Owl in the United States. U.S. Department of Interior, Fish and Wildlife Service, Biological Technical Publication FWS/BTPR6001-2003, Washington, D.C.
- Thompson, R.C., A.N. Wright, and H.B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. University of California Press and California Department of Fish and Wildlife.
- U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii and 173.
- U.S. Fish and Wildlife Service. 2017b. Species Account for California Red-legged frog. December 2017. Sacramento, CA.



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## ATTACHMENT 1

### Draft Mitigation Monitoring and Reporting Program

Biological Resources (BIO)		
Mitigation Measure Description	Implementation Schedule	Responsible Party
<p><b>Species Survey Timing and Results:</b> Focused surveys for special-status species using appropriate protocols should be conducted by qualified biologists at the Project site prior to any Project-related construction no earlier than seven (7) days prior to start of work, unless otherwise specified in this comment letter. Survey results should be sent to CDFW for review and acceptance.</p>	Prior to ground disturbance	Project Applicant
<p><b>Measure IV-7 California Tiger Salamander:</b>            Recommendations: Due to the Project location overlapping California tiger salamander occurrences and appropriate habitat, CDFW advises that the Project proponent obtain a CESA Permit (pursuant to Fish and Game Code Section 2080 et seq.) in advance of Project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts; mitigation, and should fully describe a mitigation, monitoring and reporting program. As mentioned above, if the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit. More information on the CESA permitting process and protocol survey procedures can be found on the CDFW website at <a href="https://www.wildlife.ca.gov/Conservation/CESA">https://www.wildlife.ca.gov/Conservation/CESA</a> or <a href="https://www.wildlife.ca.gov/Conservation/Survey-Protocols">https://www.wildlife.ca.gov/Conservation/Survey-Protocols</a>.            CDFW recommends consulting with USFWS to comply with federal ESA requirements.</p>	Prior to ground disturbance	Project Applicant
<p><b>Measure IV-8 California Red-legged Frog:</b> For an adequate environmental setting and to reduce potential impacts to California red-legged frog to less-than-significant, CDFW recommends the following mitigation measure.</p>	Prior to ground disturbance and ongoing	Project Applicant

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<p>Within 48 hours prior to the commencement of ground-disturbing activities, the Project area and nearby vicinity, including a minimum 500-foot radius surrounding the Project area, shall be assessed by a qualified biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows. The results of the habitat feature assessment shall be submitted to CDFW for written acceptance prior to starting Project activities. Habitat features shall be flagged for avoidance to the extent feasible. If California red-legged frogs are encountered during the assessment or Project activities, the Project shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the Project. If California red-legged frog is encountered or the qualified biologist believes that California red-legged frog is likely to occur in the Project area, the Project shall consult with USFWS pursuant to the federal ESA. All California red-legged frog upland and breeding habitat should be considered and evaluated when consulting with USFWS for take authorization.</p>		
<p><b>Measure IV-9 Western Pond Turtle:</b> CDFW recommends that the draft EIR include a measure requiring a qualified biologist to conduct focused surveys for potential western pond turtle nesting habitat prior to each phase of the Project. If nesting habitat is identified then to exclude any female western pond turtle from laying eggs within a development phase of the Project, exclusion fencing should be placed prior to the egg-laying season (March through August). Exclusion fencing should be designed to encompass each development phase and maintained weekly until construction activities have been completed.</p> <p>Additionally, CDFW recommends that if any western pond turtle are discovered at the site immediately prior to or during Project activities, they should be allowed to move out of the area of their own accord. If a western pond turtle is unable to independently move out of the Project area, a qualified biologist should relocate western pond turtle out of harm's way in habitat similar to where it was found.</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>
<p><b>Added Measure – Alameda Whipsnake:</b> CDFW recommends revising the draft EIR to evaluate all habitat</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>types and assess the viability for containing Alameda whipsnake. Project construction may result in direct adverse effects including mortality of individuals. CDFW recommends that Project impacts such as the permanent destruction of Alameda whipsnake habitat and direct impacts associated with roadway mortalities be identified in a revised draft EIR. The draft EIR should also analyze cumulative impacts to the Alameda whipsnake due to fragmentation of habitat, permanent loss of habitat, and impacts associated with vehicle traffic on roadways.</p> <p>The draft EIR does not include measures to protect Alameda whipsnake, and therefore, fails to reduce permanent loss of Alameda whipsnake habitat to level of less-than-significant as it does not identify compensatory mitigation to offset this impact. CDFW recommends adding new measures addressing impact minimization and compensatory mitigation for Project impacts to AWS and their habitats to a less-than-significant level. If take of Alameda whipsnake cannot be fully avoided, then CDFW recommends the Project obtain Alameda whipsnake take coverage through an ITP issued by CDFW.</p>		
<p><b>Measures IV-5a and IV-5b Nesting Migratory Birds, including Nesting Raptors and Protected Birds:</b> CDFW recommends the final EIR incorporate the following revisions to language in Measures IV-5a and IV-5b to ensure that significant impacts to bird species resulting from the Project are mitigated to a level of less-than-significant.</p> <p>Construction work should take place outside of the February 15 to September 15 bird nesting seasonal window to the maximum extent practicable. If construction is to be conducted during the nesting season, the Project Applicant is responsible for ensuring that the Project does not result in any violation of the MBTA or Fish and Game Code. A qualified biologist will conduct focused pre-construction nesting bird surveys throughout the Project area no more than five days prior to the initiation of on-site Project-related activities. Surveys will be conducted in all potential habitat located at, and adjacent to, Project work sites and in staging and storage areas. The minimum survey radii surrounding the work area will be the following: (1) 250 feet for Passerines; (2) and 1,000 feet for raptors such as Buteo spp. In the event that there is a lapse in construction activities for seven days or more, a qualified biologist will conduct additional focused pre-</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>construction nesting bird surveys in areas of potential habitat again before Project activities can be reinitiated. If an active nest is found, the qualified biologist may consult with CDFW if needed regarding appropriate action to comply with Fish and Game Code.</p> <ul style="list-style-type: none"> <li>• Active Nest Buffers. Active nest sites and protective buffer zones will be designated as “ecologically sensitive areas” where no Project-related activities or personnel may enter (while occupied or in use for the season in the case of multi clutch bearing species) during the course of nesting bird season with the establishment of a fence barrier or flagging surrounding the nest site. The qualified biologist will determine the necessary buffer, in consultation with CDFW if needed, to protect nesting birds based on existing site conditions, such as construction activity, topography, and line of sight, and will increase buffers as needed to provide sufficient protection of nesting birds and their natural behaviors.</li> <li>• Active Nests. A qualified biologist will observe any identified active nests prior to the start of any Project-related activities to establish a behavioral baseline of the adults and any nestlings. Once Project activities commence, all active nests will be continuously monitored by a qualified biologist to detect any signs of disturbance and behavioral changes as a result of the Project. In addition to direct impacts, such as nest destruction, nesting birds might be affected by noise, vibration, odors and movement of workers or equipment. If signs of disturbance and behavioral changes are observed, the qualified biologist will halt Project activities causing that change until they nestlings have fledged, and the nest is determined to be inactive.</li> </ul>		
<p><b>Measure IV-4 Burrowing Owls:</b> For an adequate environmental setting evaluation and to reduce impacts to burrowing owl to less-than-significant, CDFW recommends revising the draft EIR to include the following revised mitigation measure:</p> <p>A qualified biologist shall conduct a habitat assessment for wintering burrowing owl, and surveys if habitat is present. The qualified biologist shall follow the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report) habitat assessment and survey methodology prior</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>to Project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass a sufficient buffer zone to detect owls nearby that may be impacted, which shall be a minimum of 1,640 feet unless otherwise approved in writing by CDFW. Surveys shall include four non-breeding season surveys spread evenly throughout the nonbreeding season pursuant to the CDFW 2012 Staff Report. Time lapses between surveys or Project activities shall trigger subsequent surveys, as determined by a qualified biologist, including, but not limited to, a final survey within 24 hours prior to ground disturbance and before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.</p> <p>Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site specific conditions, and completed before Project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan prior to Project construction.</p>		
<p><b>Measure IV-3 Golden Eagle:</b> CDFW recommends revising the measure to incorporate following survey protocols per the Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations document:  <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83940">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83940</a>.</p> <p>Surveys should be conducted by a qualified biologist with sufficient experience surveying and monitoring golden eagle. Golden eagles are known to spend 90 percent of their time within one mile of a nest; therefore, nest surveys should be completed at minimum within one mile the outer boundaries of Project related activities. Active golden eagle</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>nests observed within one mile from Project activities should be monitored by a qualified biologist and a “no-work” buffer should be implemented until all young have fledged. CDFW and USFWS should be consulted to determine site-specific buffers and monitoring requirements to avoid premature fledging.</p>		
<p><b>Measure IV-4 Special-Status Plants:</b> For an adequate environmental setting and to reduce impacts to CESA and federally listed plants to less-than-significant, CDFW recommends implementing the following additional measures related to botanical resources:</p> <p>The Project shall submit to CDFW two years of completed botanical survey results and obtain CDFW’s written approval of the results. The botanical survey results shall follow CDFW’s 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities. If CDFW is unable to accept the survey results, the Project applicant shall conduct additional surveys prior to initiation of Project activities or may assume presence of listed species. Please be advised that for CDFW to accept the results, they must be completed in conformance with CDFW’s 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering offsite hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of the above CESA listed plants that may be impacted by the Project, or the presence of these species is assumed, the Project applicant shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP.</p> <p>CDFW agrees that a Mitigation and Monitoring Plan should be prepared and implemented prior to Project implementation if special-status plants are found during surveys. The draft EIR should outline which species of special-status plants will be impacted, and a well-developed, robust proposal for how the Project would be re-designed to avoid, minimize and/or mitigate impacts to those special-status plants. The applicant should provide a</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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<p>copy of the special-status plant survey results to CDFW for review and acceptance.</p>		
<p><b>Added Measure - Impacts to Sand Creek and Associated Riparian Habitat:</b> There may be opportunities to move the channel to the more stable stream Stage 8.</p> <p>CDFW recommends evaluating mechanisms that slow the channel’s flow velocity through the Project site, and which encourage vegetation and biological activity, as well as sediment deposition to aggrade in the channel. This might be accomplished by elevating the existing channel grade to match the small inset terrace above the active channel, and/or by introducing nature-based techniques and structures to slow flow and capture sediment.</p> <p>CDFW further recommends that Project develop and incorporate appropriate channel restoration actions to ensure the long-term stability of the channel’s stream dynamics.</p>	<p>Prior to ground disturbance and during Project implementation</p>	<p>Project Applicant</p>
<p><b>Added Measure – Project Phasing Evaluation:</b> CDFW recommends the draft EIR be revised to include a fully developed description of the Project’s phasing and estimated timeframes from start of construction to complete buildout and require resurveys for biological resources. If the Project’s timeframe from start of construction to complete build out includes breaks in construction longer than 15 days or periods of inactivity that could allow establishment of habitat elements such as ground squirrel burrows or vegetation, then impacts to wildlife that may use these habitat elements should be addressed in the draft EIR. CDFW recommends including in the draft EIR a mitigation measure that includes the following elements: 1) a qualified biologist shall conduct a wildlife survey and habitat assessment to determine potential wildlife and habitat elements present that may be utilizing the vacant sections and/or parcels prior to Project-related activities taking place when there is a break in these activities greater than 15-days; 2) if unbuilt or fallow sections and/or parcels are being utilized by wildlife, avoidance and minimization measures shall be specified to prevent impacts and mortality, 3) if impacts and “take” are not fully avoidable, additional compensatory mitigation shall be discussed and agreed upon with CDFW’s approval prior to the re initiation of construction activities, and 4) if there is a break in these activities greater than 15</p>	<p>Prior to ground disturbance</p>	<p>Project Applicant</p>

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days, compliance checks by a qualified biologist are required to ensure habitat assessments, pre-construction surveys, and other biological mitigation measures in the draft EIR are being implemented.		
<b>Added Comment - Maintaining Migration Corridors:</b> CDFW recommends that the draft EIR be revised to contemplate and fully evaluate an increase in the creek setback area greater than the proposed 50 feet or completely excluding recreation from this corridor.	Prior to ground disturbance	Project Applicant