



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Dec 28 2021

STATE CLEARINGHOUSE

Via Electronic Mail Only

December 28, 2021

Hector Hernandez
City of Pico Rivera
6615 Passons Boulevard
Pico Rivera, CA 90660
HHernandez@pico-rivera.org

Subject: Mitigated Negative Declaration for the Beverly Boulevard Warehouse Project, SCH #2021120053, City of Pico Rivera, Los Angeles County

Dear Mr. Hernandez:

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) from the City of Pico Rivera (City) for the Beverly Boulevard Warehouse Project (Project). The MND's supporting documents includes *Appendix B Biological Resources Analysis* (Appendix B). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's Role

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The Project proposes to develop approximately 19.06 acres. The Project site is unpaved and is periodically tilled/grubbed. Vegetation on the Project site consists of low-lying grasses, shrubs, and several mature palm trees occurring in several areas along the perimeter of the Project site. An existing concrete-lined drainage feature that flows east to west is located within the northern portion of the site.

The Project proposes to construct a warehouse building and print shop facility. The warehouse building would encompass approximately 357,903 square feet of building area, which would include warehouse, distribution, office facilities, and 393 surface parking spaces. The two-story warehouse building would have a maximum height of 73 feet. The print shop facility would encompass approximately 2,500 square feet of building area and include 29 surface parking spaces. The single-story print shop facility would have a maximum height of 25 feet. The Project also includes the following: 22 bicycle spaces; approximately 85,710 square feet of landscaping consisting of ornamental species of shrubs, ground cover, and trees; nighttime security and safety lighting; a 8-foot high chain link security fence along the easterly boundary of the Project site (adjacent to railroad right-of-way); a 10-foot screen wall along the northwesterly side of the warehouse building; and a minimum 6-foot-high block wall constructed along the southerly boundary of the Project site adjacent to residential uses.

The Project also proposes to improve the existing Southern California Edison driveway along Beverly Boulevard for primary access, located west of the Interstate 605/Beverly Boulevard interchange. In addition, the Project would construct a vehicular/bicycle/pedestrian bridge with a west to east direction spanning over the existing Union Pacific Railroad alignment to connect Beverly Boulevard and the Project site. The bridge would be approximately 118 feet long, 50 feet and 6 inches wide, and 23 feet and 4 inches above the Union Pacific Railroad alignment.

Location: The Project is located within the central portion of the City. The 19.06-acre Project site is divided into two segments by an existing Union Pacific Railroad alignment. The smaller segment of the Project site is located northwest of Union Pacific Railroad and immediately south of Beverly Boulevard. The second larger segment is located southeast of Union Pacific Railroad and immediately west of I-605. Both segments make up the "Project site". The Project site is bound by the San Gabriel River to the west, Interstate 605/Beverly Boulevard interchange to the north, Interstate 605 to the east, and an existing single-family residential development to the south.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

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Specific Comments

Comment: Impacts on Aquatic Resources

Issue: The Project could continue have a significant impact aquatic resources and associated vegetation.

Specific impacts: The Project as proposed would result in impacts to “a total of approximately 0.19 acre (382 linear feet) of CDFW jurisdictional streambed.”

Why impact would occur: According to page 4.4-3 in the MND, there are two drainages on the Project site. The Project would impact 0.18 acres of Drainage 1 and 0.006 acres of Drainage 2 for a total of 0.19 acres. The impacts would be significant and permanent as these 0.19 acres “would be removed as part of the Project.” The Project’s MND as it is currently written does not provide mitigation measures to adequately reduce the Project’s impact on streams to less than significant under CEQA.

First, the Project could result in unauthorized impacts to streams if the Project Applicant proceeds with the Project as described in the MND that includes additional activities not described in the Project’s Lake or Streambed Alteration (LSA) Notification. On July 22, 2020, CDFW received an LSA Notification for the Project (LSA Notification No. 1600-2020-0153-R5). The LSA Notification was deemed complete on September 16, 2020. Per the LSA Notification, the Project would only impact 0.18 acres of Drainage 1. CDFW had until November 15, 2020, to provide a draft LSA Agreement to the Project Applicant. CDFW did not meet that deadline, so the Project as described in the LSA Notification that did not include the 2,500-square-foot print shop facility and impacts to Drainage 2, was approved by operation of law. Pursuant to Fish and Game Code section 1602, subdivision (a)(4)(D), if the Project Applicant proceeds with the Project, the Project must be completed as described and conducted in the same manner as specified in the LSA Notification and any modifications to that LSA Notification received by CDFW prior to September 16, 2020. This includes completing the Project within the proposed term and seasonal work period and implementing all avoidance and mitigation measures to protect fish and wildlife resources specified in the LSA Notification. If the Project has changed substantially or added additional activities within a stream, the Project Applicant will need to resubmit a LSA Notification with a revised project description, impact assessment, and mitigation measures.

Second, the Project could continue to have a significant impact on streams because the MND does not require compensatory mitigation for the Project’s impact on 0.19 acres of streambed. While the Project Applicant has proposed compensatory mitigation in the Project’s LSA Notification, compensatory mitigation is not required in the MND to reduce impacts to less than significant. One of the basic purposes of CEQA is to disclose mitigation measures included in a project to avoid potentially significant effects on the environment. Pursuant to CEQA Guidelines section 15071, “a negative declaration circulated for public review shall include mitigation measures, if any, included in the project to avoid potentially significant effect.” In addition, pursuant to CEQA Guidelines section 15126.4, “formulation of mitigation measures shall not be deferred until some future time.” Specific details of a mitigation measure may be developed after project approval provided that the lead agency commits itself to mitigation [CEQA Guidelines, § 15126.4(a)(1)(B)]. Finally, pursuant to CEQA Guidelines section 15097, “the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project

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and the measures it has imposed to mitigate or avoid significant environmental effects.” Mitigation measures “must be fully enforceable through permit conditions, agreements, or other legally-binding instruments” [CEQA Guidelines, § 15126.4(a)(2)]. The City may be unable to mitigate significant impacts to stream resources consistent with CEQA Guidelines sections 15097 and 15126.4 because the MND does not require compensatory mitigation for stream impacts [also see Pub. Resources Code, § 21081.6; CEQA Guidelines section 15074(d)].

Evidence impacts would be significant: The Project would impact “*a total of approximately 0.19 acre (382 linear feet) of CDFW jurisdictional streambed.*” CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated plant communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake¹;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

The Project could continue to have a significant impact on fish and wildlife resources absent measures to mitigate for the Project’s impact on streams as described in the MND. Inadequate mitigation measures provided in the Project’s CEQA document will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated plant communities.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: LSA Notification No. 1600-2020-0153-R5 may not authorize all of the impacts associated with the Project as described in the MND. Prior to starting Project activities, the Project Applicant should contact CDFW to make sure the LSA Notification included all impacts associated with the Project. If the LSA Notification does not include all impacts associated with the Project, the Project Applicant should renotify pursuant to Fish and Game Code section 1602. Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021a).

Mitigation Measure #2: If the Project Applicant needs to renotify pursuant to Fish and Game Code section 1602, CDFW recommends the LSA Notification include the following information and analyses:

- 1) Linear feet and/or acreage of streams and associated plant communities that would be permanently and/or temporarily impacted by the Project. Plant community names should be provided based on vegetation association and/or alliance per the [Manual of California Vegetation](#), second edition (Sawyer et al. 2009);

¹ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

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- 2) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and,
- 3) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation should assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under existing and proposed conditions.

Mitigation Measure #3: Per LSA Notification No. 1600-2020-0153-R5, the Project Applicant should mitigate for impacts to streams by purchasing credits at a mitigation bank. The Project Applicant should purchase credits at a mitigation bank at no less than 1:1 for permanent impacts to 0.19 acres of streambed. The Project Applicant should submit the credit amount, bank sponsor, habitat types(s), and map of the mitigation site to CDFW for review and approval prior to purchasing the credits. The Project Applicant should submit a record of purchase to CDFW prior to starting Project activities and submit a record of purchase to the City before the City issues a grading permit for the Project.

Recommendation #1: CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW's comments and incorporate the mitigation measures and revisions recommended in this letter into the Project's final environmental document. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation, enhancement, preservation, or restoration; and/or protection and management of mitigation lands in perpetuity.

Additional Recommendations

- 1) Prohibit Use of Rodenticides. Use of rodenticides and second-generation anticoagulant rodenticides should be prohibited during the Project and for the Project's lifetime. Rodenticides and second-generation anticoagulant rodenticides have harmful effects on the ecosystem. Second-generation anticoagulant rodenticides are much more likely to poison predatory wildlife that eat live or dead poisoned prey. Accordingly, second-generation anticoagulant rodenticides have a higher risk of severe poisoning for non-target wildlife as toxins move up the food chain. Second-generation anticoagulant rodenticides have been documented to cause injury or mortality of birds and mammals such as bobcats, coyotes, foxes, and mountain lions which is currently a candidate species for listing as threatened under the California Endangered Species Act (CDFW 2020).
- 2) Move Out of Harm's Way. CDFW recommends the City require the Project Applicant to have a qualified biologist on site to move out of harm's way wildlife of low mobility that could be

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injured or killed. Wildlife should be protected, allowed to move away on its own (i.e., non-invasive, passive relocation), or relocated to suitable habitat at least 200 feet outside of the Project site. In areas where wildlife is found, work should only occur in these areas after a qualified biologist has relocated the animal and determined it is safe for work to restart. CDFW recommends that the City require the Project Applicant to have a qualified biologist on site daily during initial ground and habitat disturbing activities as well as vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project until the cessation of all ground and habitat disturbing activities, as well as vegetation removal to ensure that no wildlife is harmed.

- 3) Use of Native Plants and Trees. CDFW strongly recommends avoiding non-native, invasive plants for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the [California Invasive Plant Council](#) (Cal-IPC 2021a). CDFW supports the use of native species found in naturally occurring vegetation communities within or adjacent to the Project site. CDFW supports planting species of trees and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. Information on alternatives for invasive, non-native, or landscaping plants may be found on the [California Invasive Plant Council's, Don't Plant a Pest](#) webpage for southern California (Cal-IPC 2021b). The Audubon Society's [Plants for Birds](#), California Native Plant Society's [Gardening and Horticulture](#), and Xerces Society's [Pollinator-Friendly Native Plant Lists](#) webpages provide information on native plant species that invite insects, pollinators, and birds (Audubon Society; CNPS 2021; Xerces Society 2021).
- 4) Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) that may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDB Field Survey Forms](#) (CDFW 2021b). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Releve Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2021c). The City should ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The City should provide CDFW with confirmation of data submittal.
- 5) Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, §§ 15097, 15126.4). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City 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).

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Filing Fees

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

Conclusion

We appreciate the opportunity to comment on the Project to assist the City of Pico Rivera in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Pico Rivera has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1 Impacts on Aquatic Resources-LSA Agreement	Prior to starting Project activities, the Project Applicant shall contact CDFW to make sure the LSA Notification (Notification No. 1600-2020-0153-R5) included all impacts associated with the Project. If the LSA Notification does not include all impacts associated with the Project, the Project Applicant shall renotify pursuant to Fish and Game section 1602.	Prior to starting Project construction and activities	Project Applicant
MM-BIO-2 Impacts on Aquatic Resources-LSA Notification	<p>If the Project Applicant needs to renotify pursuant to Fish and Game Code section 1602, the Project Applicant's LSA Notification shall include the following information and analyses:</p> <ol style="list-style-type: none"> 1) Linear feet and/or acreage of streams and associated plant communities that would be permanently and/or temporarily impacted by the Project; 2) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation shall be discussed; and, 3) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation shall assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under existing and proposed conditions. 	<p>LSA Notification</p> <p>Prior to starting any Project construction and activities</p>	Project Applicant

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MM-BIO-3 Impacts on Aquatic Resources- Compensatory Mitigation	<p>The Project Applicant shall mitigate for impacts on streams by purchasing credits at a mitigation bank per LSA Notification No. 1600-2020-0153-R5). The Project Applicant shall purchase credits at a mitigation bank at no less than 1:1 for permanent impacts to 0.19 acres of streambed. The Project Applicant shall submit the credit amount, bank sponsor, habitat types(s), and map of the mitigation site to CDFW for review and approval prior to purchasing the credits. The Project Applicant shall submit a record of purchase to CDFW prior to starting Project activities and submit a record of purchase to the City before the City issues a grading permit for the Project.</p>	<p>Prior to starting Project construction and activities</p> <p>Before the City issues a grading permit for the Project</p>	<p>City of Pico Rivera (City)/Project Applicant</p>
REC-1- LSA Notification and CEQA	<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 from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW's comments and incorporate the mitigation measures and revisions recommended in this letter into the Project's final environmental document.</p>	<p>Prior to finalizing Project CEQA document</p>	<p>City</p>
REC-2- Prohibit Use of Second- Generation Anticoagulant Rodenticides	<p>Use of rodenticides and second-generation anticoagulant rodenticides should be prohibited.</p>	<p>During the Project and for the Project's lifetime</p>	<p>Project Applicant</p>
REC-3- Move out of Harm's Way	<p>A qualified biologist should be on site to move out of harm's way wildlife of low mobility that could be injured or killed. Wildlife should be protected, allowed to move away on its own (i.e., non-invasive, passive relocation), or relocated to suitable habitat at least 200 feet outside of the Project site. In areas where wildlife is found, work</p>	<p>Daily during initial ground and habitat disturbing activities as</p>	<p>Project Applicant</p>

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	<p>should only occur in these areas after a qualified biologist has relocated the animal and determined it is safe for work to restart. A qualified biologist should be on site daily during initial ground and habitat disturbing activities as well as vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project until the cessation of all ground and habitat disturbing activities, as well as vegetation removal to ensure that no wildlife is harmed.</p>	<p>well as vegetation removal</p> <p>Weekly or bi-weekly (once every two weeks) for remainder of the Project until the cessation of all ground and habitat disturbing activities</p>	
REC-4-Landscaping	<p>Use of non-native, invasive plants for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the California Invasive Plant Council should be avoided. The Project Applicant should use native species found in naturally occurring vegetation communities within or adjacent to the Project site. The Project Applicant should plant species of trees and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds.</p>	<p>Prior to finalizing Project design and plan</p>	<p>Project Applicant</p>
REC-5-Data	<p>The City should ensure that all sensitive and special status species data has been properly submitted to the California Natural Diversity Database. To submit information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Releve Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program. The Project Applicant should provide CDFW with confirmation of data submittal.</p>	<p>Prior to/after Notification pursuant to Fish and Game Code section 1600 et seq.</p>	<p>City/Project Applicant</p>

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REC-6- Mitigation and Monitoring Reporting Plan	The City should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter.	Prior to finalizing CEQA document	City
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