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Via Electronic Mail Only

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Subject: Notice of Preparation of a Draft Environmental Impact Report for the MacArthur Lake Stormwater Capture Project, SCH #2022040153, City of Los Angeles, Los Angeles County

Dear Mr. Magallanes:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation/Initial Study (NOP/IS) of Draft Environmental Impact Report (DEIR) from the City of Los Angeles (City) for the MacArthur Lake Stormwater Capture Project (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's Role

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

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

Project Description and Summary

Objective: The Project would implement a regional multi-benefit stormwater project in MacArthur Park. The Project is part of the region's efforts under Los Angeles County's Safe Clean Water Program (SCWP) to meet water quality total maximum daily load limits for the Ballona Creek watershed and the current National Pollutant Discharge Elimination System permit. The Project proposes to divert and treat stormwater and dry weather flows from a 216-acre drainage area within the Ballona Creek watershed. Flows would be diverted via a junction structure at three existing underground storm drains in an alley that parallels 7th Street near the intersection of the alley and Lake Street. Flows would be discharged into MacArthur Lake for storage or returned to the storm drain system. The Project would reduce the amount of stormwater and dry weather flows, and their associated pollutant loads, that enter Ballona Creek, Ballona Wetlands, and Santa Monica Bay.

During the wet season, the Project would divert up to 12 cubic feet per second (cfs) of stormwater from the drainage area. Stormwater in the existing storm drain system not diverted (i.e., stormwater in excess of 12 cfs) would continue to flow through the existing storm drain system into Ballona Creek. After being diverted, the stormwater would flow through a pretreatment unit to remove trash and heavy suspended solids. A pump station would lift the stormwater and convey flows through a pipeline below 7th Street. From this point, there are three possible flow paths:

- The initial stormflows would flow from the pump station directly into MacArthur Lake for storage. The pretreated stormwater would be pumped into MacArthur Lake until a flow totalizer meter indicates that a total volume of 5 acre-feet (217,800 cubic feet) has been pumped into MacArthur Lake or until the maximum water level in MacArthur Lake has been reached, whichever comes first. Once storage capacity has been reached, an automated valve would close, preventing further flow into MacArthur Lake. In-lake storage would decrease the use of potable water needed to maintain MacArthur Lake.

- Once the storage capacity of MacArthur Lake has been reached, stormwater flows would be directed to a stormwater treatment unit, located within MacArthur Park, that would provide additional treatment. Once stormwater passes through the stormwater treatment unit, stormwater would be returned back to the storm drain system and would flow through storm pipes to Ballona Creek.

- If the stormwater treatment unit capacity is reached, stormwater would flow from the pump station to the return pipe, where it would be blended with treated water from the stormwater treatment unit prior to being discharged back to the storm drain system in Grand View Street.

During dry weather, flows would be diverted from storm drains on Lake Street through the pretreatment unit and to the pump station, which would lift the dry weather flows and convey them to MacArthur Lake. A lake recirculation lake pump would lift water from MacArthur Lake to new, lined treatment wetlands designed with a cascading configuration. The treatment wetlands would be constructed near the southwest corner of MacArthur Park. The treatment wetlands would naturally filter the recirculated water from MacArthur Lake.

Prior to a storm event, the water level in MacArthur Lake would be lowered by approximately 8 inches (1.6 million gallons) to provide room for storage of up to 5 acre-feet of stormwater. Water removed from MacArthur Lake would be discharged to the sanitary sewer system and would occur a minimum of 48 hours after a storm event. MacArthur Lake would be lowered 12.5 times per year on average. Discharges to the sanitary sewer would total approximately 62.5 acre-feet per year (2,722,500 cubic feet). Lake water discharged to the sewer would be treated at the Hyperion Water Reclamation Plant. Stormwater that is stored in MacArthur Lake and later discharged to the sanitary sewer for treatment at Hyperion Water Reclamation Plant would meet the stormwater quality requirements by removing all pollutants.

Project construction would last for approximately 22 months. One or two non-native mature trees and three recently planted trees in the footprint of the proposed treatment wetlands would be removed and replaced elsewhere within MacArthur Park. In addition, installation of subsurface pipelines would require the removal and replacement of an additional tree within MacArthur Park and four street trees along 7th Avenue and Lake Street.

Location: MacArthur Park is a public park located at 2230 W. 6th Street in the Westlake neighborhood of central Los Angeles. MacArthur Park is bounded by 6th Street to the north, 7th Street to the south, Park View Street to the west, and Alvarado Street to the east. Wilshire Boulevard extends east-west through MacArthur Park, dividing the park into northern and southern sections. The proposed Project would occur within the southwestern area of MacArthur Park and in the public rights-of-way on adjacent streets southwest of MacArthur Park and in the alley that parallels 7th Street. The underground diversion, capture, and pretreatment structures would be located south of MacArthur Park on Lake Street and in an adjacent alley. An additional underground stormwater treatment unit would be located along the southern edge of MacArthur Park. Underground pipelines would be located in MacArthur Park and in Lake Street, Grand View Street, 7th Street, and in a small portion of the alley that parallels 7th Street.

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. The DEIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

Specific Comments

1) Southern California steelhead (southern steelhead; *Oncorhynchus mykiss*). According to the NOP/IS, the Project would reduce the amount of stormwater that flows into Ballona Creek and from there, into the Ballona Wetlands, which are owned and managed by CDFW. In 2007, adult southern steelhead were observed at Ballona Creek (Dagit *et al.* 2020). The Project could impact steelhead by altering the flow regime necessary to support fish passage along Ballona Creek. Surface water diversions impacts the ability of southern steelhead to move freely upstream-to-downstream and to find adequate locations for refuge and proliferation (USACE 2015).

a) Protection Status: Pursuant to Section 2074.2 of the Fish and Game Code, on April 21, 2022, the California Fish and Game Commission (Commission) determined that listing southern steelhead as threatened or endangered under CESA may be warranted (CDFW 2022a). This commences a one-year status review of the species, and at a future meeting, the Commission will make a decision whether listing of southern steelhead as threatened or endangered under CESA is warranted. During the status review, southern steelhead is protected under CESA as a candidate species pursuant to Section 2085 of the Fish and Game Code, provided that notice has been given as required by Section 2074.4 of the Fish and Game Code. The City is prohibited from undertaking or authorizing activities that result in take of any endangered, threatened, or candidate species, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

b) Analysis and Disclosure: The DEIR should analyze and discuss the Project's potential impact on southern steelhead population, habitat, substrate, and passage. An analysis of passage should include passage of adults from the ocean to Ballona Creek and passage of smolts/juveniles from nursing grounds to Ballona Creek, Ballona Wetlands, and the ocean. The DEIR should analyze the Project's effect on the hydrology and hydraulics (velocity, depth, and temperature) of Ballona Creek and how those effects may impact southern steelhead. An adequate analysis should provide the following information at a minimum:

- A study reach extending from MacArthur Park to the Santa Monica Bay whereby the Project's effects on flow is analyzed;
- Project effects on flow (cfs, acre-feet) and hydraulics (velocity, depth, temperature, and wetted perimeter) during the wet season (November through March), dry season (April through October), and both above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year) under pre-project (i.e., baseline conditions) and post-project conditions;
- Percent changes in flow, velocity, depth, temperature, and wetted perimeter (acres gained/lost) under Project conditions;
- How the Project may potentially affect on-going habitat recovery and restoration efforts for southern steelhead; and
- Project-related impacts on southern steelhead in relation to cumulative flow reductions and water diversions proposed by closely related past, present, and probable future projects in Ballona Creek Watershed and the Los Angeles River Watershed, whether related or unrelated to Los Angeles County's Safe Clean Water Program, Stormwater Capture Master Plan, 2015 Urban Water Management Plan, City of Los Angeles' Green New Deal, and/or Enhanced Watershed Management Plan.

CDFW recommends such analysis and evaluation apply a function flows approach to evaluate impacts on biological resources. The functional flows approach provides the basis for guidance provided in the California Environmental Flows Framework (UC Davis 2022). Functional flows are distinct aspects of a natural flow regime that sustain ecological, geomorphic, or biogeochemical functions, and that support the specific life

history and habitat needs of native aquatic species. Retaining key functional flow components in managed flow regimes is thus expected to support foundational physical and ecological processes that sustain biological communities.

CDFW also recommends the City refer to the following technical report from the Los Angeles River Environmental Flows Project to analyzing flow conditions and habitat suitability criteria required by southern steelhead for passage: Process and Decision Support Tools for Evaluating Flow Management Targets to Support Aquatic Life and Recreational Beneficial Uses of the Los Angeles River (Stein *et al.* 2021).

c) Mitigation: The DEIR should provide measures to mitigate for the Project's potentially significant impact on southern steelhead. Measures may include developing an Adaptive Management Plan that would reduce or suspend water diversion if at any point the Project may impact southern steelhead downstream exceeding a defined threshold/trigger. Appropriate mitigation may include obtaining appropriate take authorization under CESA (pursuant to Fish & Game Code, § 2080 et seq.).

d) CESA: Appropriate take authorization under CESA may include an Incidental Take Permit (ITP) among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. To obtain appropriate take authorization under CESA, early consultation with CDFW is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project's CEQA document addresses all Project impacts on CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

2) Impacts on Biological Resources Due to Water Diversion. According to the NOP/IS, the Project's proposal to divert stormwater flows and dry weather flows could impact riparian habitat and sensitive natural communities at Ballona Wetlands. The DEIR would assess these potential impacts on biological resources.

a) Analysis and Disclosure: The Project's evaluation of impacts on biological resources, including riparian habitat and sensitive natural communities, should be consistent with CDFW's recommendations under Comment #1b. In addition to those recommendations, the assessment should include the following:

- A map of natural communities and important bird foraging and nesting habitat occurring in the study reach;
- A map modeling potential changes to channel hydraulics overlain on a map of natural communities and habitat for sensitive wildlife species and birds; and
- A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the study reach. For each biological resource, provide:
    - A summary of species-specific habitat requirements;
    - A discussion as to how the species or natural community may be

impacted through habitat modification as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and
- A quantitative analysis and/or adequate discussion to evaluate whether the Project would result in those significant impacts.

CDFW recommends the DEIR define what thresholds were used to evaluate the significance of potential impacts on biological resources. The DEIR should provide qualitative or quantitative definitions for thresholds and explains why the criteria or threshold for significance are appropriate for determining the Project's level of significance. A threshold of significance should be an identifiable quantitative, qualitative, or performance level (CEQA Guidelines, § 15064.7). The DEIR should explain how compliance with thresholds means that the Project's impacts are less than significant [CEQA Guidelines, § 15064(b)(2)]. The DEIR should explain whether thresholds presented in the DEIR/by the City have been adopted for general use by the City as part of the City's environmental review process, which must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence (CEQA Guidelines, § 15064.7). The DEIR should explain whether these thresholds have been previously adopted or recommended by other public agencies or recommended by experts (CEQA Guidelines, § 15064.7).

3) Stream Delineation and Impact Assessment. The Project would divert flows from Ballona Creek and reduce the amount of flow into Ballona Creek and Ballona Wetlands.

   a) Analysis and Disclosure: CDFW recommends the DEIR include a stream delineation and evaluation of impacts on any river, stream, or lake[1]. The delineation should be conducted pursuant to the USFWS wetland definition adopted by CDFW[2] (Cowardin *et al.* 1979). The DEIR should discuss the Project's potential impact on streams including impacts on associated natural communities. Impacts may include channelizing or diverting streams, impairing a watercourse, and removing or degrading vegetation through habitat modification (e.g., loss of water source, encroachment, and edge effects leading to introduction of non-native plants).

   b) Mitigation: The DEIR should provide measures to mitigate for the Project's potentially significant impact on streams and associated natural communities. If the Project substantially diverts or obstructs the natural flow of any river, stream, or lake, appropriate mitigation may include notifying CDFW pursuant to Fish and Game Code section 1602.

   c) Fish and Game Code section 1602: CDFW exercises its regulatory authority as provided

[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.
[2] Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream, or use material from a streambed. For any such activities, the project applicant (or "entity") must notify CDFW[3]. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information (CDFW 2022b).

4) Nesting Birds: The Project proposes to remove trees at MacArthur Park. Trees in urbanized landscapes could support nesting birds. In the greater Los Angeles, urban forests and street trees both native and some non-native species, provide habitat for a high diversity of birds (Wood and Esaian 2020). Some species of raptors have adapted to and exploited urban areas for breeding and nesting (Cooper *et al.* 2020). For example, raptors (Accipitridae, Falconidae) such as red-tailed hawks (*Buteo jamaicensis*) and Cooper's hawks (*Accipiter cooperii*) can nest successfully in urban sites. Red-tailed hawks commonly nest in ornamental vegetation such as eucalyptus (Cooper *et al.* 2020).

   a) Protection Status: Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

   b) Analysis and Disclosure: The DEIR should discuss the Project's potential impact on nesting birds and raptors.

   c) Avoidance: The DEIR should provide measures to mitigate for the Project's potentially significant impact on nesting birds and raptors. To the extent feasible, no construction, ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating), and vegetation removal should occur during the avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs.

   d) Minimizing Potential Impacts: If impacts on nesting birds and raptors cannot be avoided, CDFW recommends the DEIR include measures to minimize impacts on nesting birds and raptors. Prior to starting ground-disturbing activities and vegetation removal, a qualified biologist should conduct nesting bird and raptor surveys to identify nests. The qualified biologist should establish no-disturbance buffers to minimize impacts on those nests. CDFW recommends a minimum 300-foot no-disturbance buffer around active bird

[3] CDFW's issuance of a Lake and Streambed Alteration (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 environmental document of the local jurisdiction (lead agency) for the project. To minimize additional requirements by CDFW pursuant to section 1600 et seq. and/or under CEQA, the environmental 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.

nests. For raptors, the no-disturbance buffer should be expanded to 500 feet and 0.5 mile for special status species, if feasible. Personnel working on the Project, including all contractors working on site, should be instructed on the presence of nesting birds, area sensitivity, and adherence to no-disturbance buffers. Reductions in the buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors determined by a qualified biologist.

General Comments

1) Disclosure: The DEIR should provide an adequate, complete, and detailed disclosure about the effect which the proposed Project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).

2) Mitigation Measures: Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document "shall describe feasible measures which could mitigate for impacts below a significant level under CEQA."

   a) Level of Detail: Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). A public agency "shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures" (Pub. Resources Code, § 21081.6). CDFW recommends the City provide mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order 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).

   b) Disclosure of Impacts: If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

3) Biological Baseline Assessment: An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An

impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to California Species of Special Concern (SSC) a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DEIR should include the following information:

a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the Vegetation Classification and Mapping Program - Natural Communities webpage (CDFW 2022c);

b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Botanical field surveys should be comprehensive over the entire Project area, including areas that could be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology;

c) Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project area and within adjacent areas. The Manual of California Vegetation, second edition, should also be used to inform this mapping and assessment (Sawyer *et al.* 2009). This assessment should include adjoining habitat areas that could be directly or indirectly impacted by the Project;

d) A complete and recent assessment of the biological resources associated with each habitat type in the Project area and within adjacent areas. CDFW's California Natural Diversity Database in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat (CDFW 2022d). An assessment should include a minimum nine-quadrangle search of the CNDDB to determine a list of species potentially present in the Project area. A lack of records in the CNDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];

e) A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project area and adjacent areas, including SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed such as wintering,

roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's Survey and Monitoring Protocols and Guidelines for established survey protocol for select species (CDFW 2022e). Acceptable species-specific survey procedures may be developed in consultation with CDFW and U.S. Fish and Wildlife Service; and,

f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period and assessments for rare plants may be considered valid for a period of up to three years. Some projects may warrant periodic updated surveys for certain sensitive taxa, particularly if build out and project implementation could occur over a protracted time frame or in phases.

4) Biological Direct, Indirect, and Cumulative Impacts: The DEIR should provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources with specific measures to offset such impacts. The DEIR should address the following:

a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DEIR;

b) A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted [CEQA Guidelines, § 15126.2(a)];

c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;

d) A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat and natural communities supported by the groundwater. Measures to mitigate such impacts should be included;

e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,

f) A cumulative effects analysis as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat,

and natural communities. If the City determines that the Project would not have a cumulative impact, the DEIR should indicate why the cumulative impact is not significant. The City's determination should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].

5) Project Description and Alternatives: To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR:

   a) A complete discussion of the purpose and need for, and description of the proposed Project;

   b) Pursuant to CEQA Guidelines section 15126.6(a), an environmental document "shall describe a reasonable range of potentially feasible alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project." CEQA Guidelines section 15126.6(f)(2) states if the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion; and,

   c) A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends the City select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the City consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance, fuel modification, or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

      Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR "shall" include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).

   d) Where the Project may impact aquatic and riparian resources, CDFW recommends the City select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level and cause the watercourse to alter its course of flow.

6) Data. CEQA requires that information developed in environmental impact reports be

incorporated into a database 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 sensitive natural communities detected by completing and submitting CNDDB Field Survey Forms (CDFW 2022f). To submit additional information on sensitive natural communities, the Combined Rapid Assessment and Releve Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022g). The City should ensure data collected for the preparation of the DEIR be properly submitted and with all applicable data fields filled out.

7) Use of Native Plants and Trees: CDFW supports the use of native plants for any project proposing revegetation and landscaping. 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 2022). CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project area. In addition, CDFW supports planting species of trees, such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) in order to create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

8) Translocation/Salvage of Plants and Animal Species: Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.

9) Compensatory Mitigation: The DEIR should include compensatory mitigation measures for the Project's significant direct and indirect impacts to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

10) Long-term Management of Mitigation Lands: For proposed preservation and/or restoration, the DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed

include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

11) Wetland Resources: CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies. The Wetlands Resources policy the Commission "…seek[s] to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California" (CFGC 2020). Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."

    a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.

    b) The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

Conclusion

We appreciate the opportunity to comment on the NOP for the MacArthur Lake Stormwater Capture Project to assist the City of Los Angeles in preparing the Project's environmental

document and identifying and mitigating Project impacts on biological resources. 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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