



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Via Electronic Mail Only

May 23, 2022

Esther Serrato
Los Angeles City Planning Department
200 N Spring Street Room 721
Los Angeles, CA 90012
Esther.Serrato@lacity.org



Subject: Mitigated Negative Declaration for Getty Center Parking Improvement Project, SCH #2022040431, City of Los Angeles, Los Angeles County

Dear Ms. Serrato:

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) from the City of Los Angeles (City) for the Getty Center Parking Improvement 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.

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Project Description and Summary

Objective: The Project would provide supplementary parking for the Getty Center. The Project is proposing new paved and landscaped surface parking areas and ancillary improvements on two existing graded areas. The Project site is currently vacant, except for storm water infrastructure that provides drainage for the site and adjacent hillside. The graded area on the southern portion of the Project site would be Oak Parking Lot A (1.47 acres), and the graded area on the northern side of the Project site would be Oak Parking Lot B (1.59 acres), collectively referred to as the Oak Parking Lots. The area of surface parking and ancillary improvements totals approximately 3.06 acres. The Oak Parking Lots would be open seven days a week from 5:00 A.M. until 11:00 P.M. and would be monitored by cameras and security patrols 24 hours a day. The Oak Parking Lots would not be accessible to the public when the Getty Center's front gate on Sepulveda Boulevard is closed.

The Project would provide approximately 106 automobile parking spaces within Oak Parking Lot A and 111 spaces within Oak Parking Lot B. When needed, the Project would be able to accommodate nine buses. The Project would develop 30 percent of the parking spaces as electric vehicle ready with at least 24 electric vehicle charging stations and two electric shuttle or bus charging stations. A restroom would be located in Oak Parking Lot A consisting of a one-story, 250-square foot structure. A bench, water fountain, trash and recycling receptacles, parking ticketing machine, and emergency phone would be provided within each of the two parking lots. The Project would extend water conveyance infrastructure under the access road leading to the Project sites, where fire hydrants would be installed to enable the Los Angeles Fire Department to use the parking lots to help protect the surrounding communities in event of a wildfire. The Project would install approximately 78 new light poles in total along the perimeter of the Project site, in the center of the surface parking areas, and near the restroom. The proposed light poles would be typical of light poles used in surface parking areas and would use 29-watt energy-efficient lighting directed down to the ground and box-shielded. The light poles would be 10 feet in height. Structure entryways would also be illuminated and designed to eliminate areas of concealment.

Plants and trees would be installed along the perimeter and center of the surface parking areas. Plantings would include native and drought-tolerant species. Sixty-nine trees are proposed to be planted, including oaks, California pepper trees, and California buckeyes. Approximately 30 percent (39,312 square feet) of the Project area would be landscaped. A network of bioswales would be installed to minimize erosion and stormwater runoff, which would filter rainwater before releasing it to the storm drain or back into the ground. The Project would enclose portions of the north and west sides of the Project area with a black vinyl-covered chain link fence 6 feet high. In addition, the Project would install a steel bar picket fence 3 feet 6 inches high around an existing drainage channel.

The Project area would be graded to a depth of less than 1 foot, with the deepest grading at between 5 feet and 5.5 feet occurring on approximately 0.025 percent of the Project area. It is estimated that construction would require approximately 3,500 cubic yards of earthwork consisting of approximately 1,400 cubic yards of soil export and 2,100 cubic yards of soil import.

Location: The Project is located at 1200 North Getty Center Drive. The Project area consists of multiple parcels and former Caltrans property remnants. The Project area is bounded by the

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Santa Monica Mountains to the north and west, I-405 to the east, and Getty Center Drive 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 Project's environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment: Impacts on Streams

Issue: The Project may impact streams.

Specific impacts: The Project may impact streams during grading and earthwork. In addition, the Project may alter the conveyance of runoff and sheet flow by installing new paved areas and permanent structures to capture runoff.

Why impacts would occur: According to page 7 in the Appendix IS-2 Biological Resources Assessment, "there are two riverine features that drain into the BSA [Biological Study Area] ... the BSA contains storm water infrastructure that provides drainage for the site and the adjacent hillsides ... There is one concrete trap channel within the Direct Impact Area and three channels within the Indirect Buffer Area. It appears that these channels may be connected to natural waterways downstream." The Project could impact streams temporarily during Project construction and permanently after the Project is completed.

Temporary impacts on streams could occur during Project construction. The Project would include substantial grading and balancing of fill on site. This could result in soil erosion and earth movement. As a result, the Project could deposit materials such as sediment and fine particles into a stream. Therefore, the Project could impact streams by depositing, permitting to pass into, or placing where it can pass into the waterway any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment.

Permanent impacts on streams could occur after the Project is completed by the Project altering how runoff is captured and conveyed through the Project site. First, the Project would increase the impermeable surface area throughout the Project site. According to Appendix IS-8 Hydrology and Water Quality Report, the Project would increase the percentage of impervious surface from one percent currently in both parking areas to 76 percent in Oak Parking Lot A and 73 percent in Oak Parking Lot B. Increased impervious surfaces would alter on-site hydrology. In addition, according to Appendix IS-8, the Project proposes to install multiple catch basins/bioswales in both parking areas to "capture and re-use the stormwater runoff from the

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new and altered impervious areas.” The Project would install features that would modify how water is captured and conveyed across the Project site compared to baseline (i.e., no Project).

Evidence impacts would be significant: 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 natural 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.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources.

The Project may impact streams both during Project construction and for the Project’s lifetime. The MND does not provide measures to mitigate for potentially significant impacts on streams. Accordingly, the Project has a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

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 lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project’s 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. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #1: If the Project may result in the alteration of streams, including the concrete channels or riverine features, the Project Applicant should notify CDFW pursuant to Fish and Game Code 1602. The Project Applicant should submit proof to the City that CDFW was notified prior to the City’s issuance of a grading permit for the Project.

Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022a).

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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Mitigation Measure #2: The Project Applicant's notification to CDFW should provide the following information at minimum:

- 1) A stream delineation in accordance with the U.S Fish and Wildlife Service wetland definition adopted by CDFW² (Cowardin et al. 1979);
- 2) Linear feet and/or acreage of streams and associated natural 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);
- 3) 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
- 4) 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 pre-Project and post-Project conditions.

Additional Recommendations

Recommendation #2: Mountain Lion – Mountain lion is known to occur in hillsides surrounding the Project site. Recently, a mountain lion, P-97, was struck and killed on the southbound side of the 405 freeway just south of the Getty Center Drive exit. In addition, Appendix IS-2 states that mountain lion could move through the surrounding hillsides. CDFW recommends the City revise the MND to include a discussion of the Project's potential effect on mountain lion from the standpoint of the following: introducing additional barriers to mountain lion movement, proposed hours of operation, the new lighting plan, and human-wildlife conflict. These Project components could affect how mountain lion may use and move through the Project site and surrounding hillsides.

The Project proposes a black vinyl-covered chain link fence 6 feet high on the north and west sides of the Project site in the Oak Parking Lots. The chain link fence could introduce a new barrier for mountain lion. The Oak Parking Lots would be open seven days a week from 5:00 A.M. until 11:00 P.M. The proposed hours of operation overlaps with when mountain lion may be more active, which is typically from dusk to dawn. The Project proposes to install 78 new lighting fixtures. Lighting has an effect on mountain lion behavior and use of a site. Anthropogenic lighting could alter behavior and interactions of mountain lion in both the wildland and wildland-urban interface (Ditmer et al. 2020). Lighting proposed by the Project could affect how mountain lions and mule deer – their preferred prey - may move and use the Project site and surrounding natural areas. Lastly, the Project would increase and introduce human presence. Increased human presence may lead to more wildlife encounters and conflict (Burdett et al. 2010; Wilmers et al. 2013). This could result in more mountain lion depredation kills, which along with vehicle strikes, account for the majority of mountain lion mortalities in the Santa Monica Mountains (Center for Biological Diversity 2019).

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.

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CDFW recommends the City provide mitigation for potentially significant impacts on mountain lion. Appropriate mitigation may include installing wildlife-friendly and permeable fencing, altering the hours of operation, reducing the number of lighting fixtures, and/or installing informational signage to reduce the risk of human-wildlife conflicts. CDFW also recommends all trash receptacles be placed in areas that would not create an unnatural food source that may attract nuisance wildlife and to minimize waste and pollution in natural areas and open space.

Recommendation #3: Lighting – The Project would introduce new lighting within the Project site. CDFW recommends the Project incorporate lighting that minimizes impacts on surrounding natural areas and wildlife (e.g., mule deer and mountain lion). Lighting should be located, arranged, or shielded away from natural areas, buffers, or undeveloped areas. CDFW recommends the City require the Project Applicant to evaluate alternative lighting configurations, number of lights, height, and lumens per luminaire, and select the alternative that would balance site security with minimizing impacts on biological resources and habitat.

Recommendation #4: Nesting Birds – According to the MND, the Project would “comply with the Migratory Bird Treaty Act and California Fish and Game Code” and require nesting bird surveys “no more than 48 hours prior to commencement of construction activities to determine if nesting birds/raptors or active nests are within 300 feet (500 feet for potential raptor nests) of the Project site.” However, nesting bird surveys are not provided as a mitigation measure.

In addition, the proposed protection measure for nesting birds is not specific and may be inadequate to reduce the Project’s impact on nesting birds to less than significant. For example, the MND currently states, “if nesting birds are found, measures to ensure that the birds/raptors and/or their nests are not harmed, would be implemented, including but not limited to, installation and maintenance of appropriate buffers (until nesting activity has ended).” The mitigation measure as it is currently written does not provide any specific and effective actions (e.g., buffer distance) that would be required of the Project Applicant to protect nesting birds and avoid impacts on nests, eggs, and nestlings, if found. Mitigation Measure BIO-1 proposed in the MND would require a fence around the Project area to ensure that construction activities remain in the Project area. However, Mitigation Measure BIO-1 is not specific to nesting bird buffers. Moreover, work contained within the Project area may still impact nesting birds if the work is occurring near nests. Nesting birds could still be impacted by elevated levels of noise, dust, ground vibrations, and increased human presence.

To adequately reduce the Project’s impact on nesting birds to less than significant, CDFW recommends the City require nesting bird surveys as a mitigation measure. CDFW also recommends the City provide nesting bird mitigation as part of the Project’s Mitigation Monitoring and Reporting Plan (MMRP). CDFW also recommends the City provide minimum no-disturbance buffer distances around active nests. No-disturbance buffers should be increased, if necessary, to protect the nesting birds. No-disturbance buffers should be maintained until the breeding season has ended or until a qualified biologist determines that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Recommendation #5: Plant Palette – According to the MND, proposed landscaping for the Project would “include a broad palette of native and drought-tolerant plantings, such as several species of oak trees with very low water use, California pepper trees, and California buckeye trees.” California pepper tree (or Peruvian pepper tree) is a non-native species that was brought to southern California and has become invasive. The Project is located adjacent to the Santa

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Monica Mountains. The Project should avoid introducing non-native species that can disperse and spread onto adjacent natural areas and open space. Accordingly, CDFW recommends the City remove California pepper tree (*Schinus molle*) from the Project's landscaping plan. 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 recommends restricting the Project's planting palette to native species that are found naturally 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. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

Recommendation #6: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022b). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022c).

Recommendation #7: 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 (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). 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 MMRP (Attachment A).

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City of Los Angeles 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 Los Angeles 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 Los Angeles 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.

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Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

Erinn Wilson-Olgin, Los Alamitos – Erinn.Wilson-Olgin@wildlife.ca.gov
Victoria Tang, Los Alamitos – Victoria.Tang@wildlife.ca.gov
Ruby Kwan-Davis, Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov
Felicia Silva, Los Alamitos – Felicia.Silva@wildlife.ca.gov
Julisa Portugal, Los Alamitos – Julisa.Portugal@wildlife.ca.gov
Frederic (Fritz) Rieman, Los Alamitos – Frederic.Rieman@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov
State Clearinghouse, Office of Planning and Research – State.Clearinghouse@opr.ca.gov

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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
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 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
REC-1-Impacts on Streams	To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's 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 an Lake and Streambed Alteration (LSA) Agreement.	Prior to finalizing CEQA document	City of Los Angeles (City)
REC-2-Impacts on Mountain Lion	The City should revise the Project's CEQA document to include a discussion of the Project's potential effect on mountain lion from the standpoint of the following: introducing additional barriers to mountain lion movement, proposed hours of operation, the new lighting plan, and human-wildlife conflict. The City should provide mitigation for potentially significant impacts on mountain lion. Appropriate mitigation may include installing wildlife-friendly and permeable fencing, altering the hours of operation, reducing the number of lighting fixtures, and/or installing informational signage to reduce the risk of human-wildlife conflicts. All trash receptacles be placed in areas that would not create an unnatural food source that may attract nuisance wildlife and to minimize waste and pollution in natural areas and open space.	Prior to finalizing CEQA document	City
REC-3-Lighting	The Project would introduce new lighting within the Project site. CDFW recommends the Project incorporate lighting that minimizes impacts on surrounding natural areas and wildlife (e.g., mule deer and mountain lion). Lighting should be located, arranged, or shielded away from natural areas, buffers, or undeveloped areas. CDFW recommends the City require the Project Applicant to evaluate alternative lighting configurations, number of lights,	Prior to finalizing CEQA document/ finalizing Project's lighting plan	City

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	height, and lumens per luminaire, and select the alternative that would balance site security with minimizing impacts on biological resources and habitat.		
REC-4-Impacts on Nesting Birds	The City should require nesting bird surveys as a mitigation measure. The City should provide nesting bird mitigation as part of the Project's Mitigation Monitoring and Reporting Plan. The City should provide minimum no-disturbance buffer distances around active nests. No-disturbance buffers should be increased, if necessary, to protect the nesting birds. No-disturbance buffers should be maintained until the breeding season has ended or until a qualified biologist determines that the birds have fledged and are no longer reliant upon the nest or parental care for survival.	Prior to finalizing CEQA document	City
REC-5-Landscaping/ Planting Palette	The City should remove California pepper tree (<i>Schinus molle</i>) from the Project's landscaping plan. The City should avoid non-native, invasive plants for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the California Invasive Plant Council . The City should restrict the Project's planting palette to native species that are found naturally in naturally occurring plant communities within or adjacent to the Project area. The City should plant species of trees, such as oaks (<i>Quercus</i> genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) in order to create habitat and provide a food source for birds. The city should plant species of vegetation with high insect and pollinator value.	Prior to finalizing CEQA document/ finalizing the Project's landscaping plan	City
REC-6-Submitting Data for Sensitive and Special Status Species and Natural Communities	Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms . Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.	Prior to finalizing CEQA document	City
REC-7-Mitigation and	The City should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental	Prior to finalizing	City

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Monitoring Reporting Plan	document to include mitigation measures recommended in CDFW's comment letter.	CEQA document	
MM-BIO-1- Impacts on Streams – LSA Notification	If the Project may result in the alteration of streams, including the concrete channels or riverine features, the Project Applicant shall notify CDFW pursuant to Fish and Game Code 1602. The Project Applicant shall submit proof to the City that CDFW was notified prior to the City's issuance of a grading permit for the Project.	Prior to the issuance of a grading permit	City/J. Paul Getty Trust (Project Applicant)
MM-BIO-2- Impacts on Streams – LSA Notification	<p>The Project Applicant's notification to CDFW shall provide the following information at minimum:</p> <ol style="list-style-type: none"> 1) A stream delineation in accordance with the U.S Fish and Wildlife Service wetland definition adopted by CDFW, 2) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. Plant community names shall be provided based on vegetation association and/or alliance per the Manual of California Vegetation, second edition; 3) 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 4) 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 pre-Project and post-Project conditions. 	Prior to the issuance of a grading permit	City/Project Applicant