



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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October 13, 2022

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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



**Subject: Mitigated Negative Declaration for Ladyface Vista Professional Center Project, SCH #2022090237, City of Agoura Hills, Los Angeles County**

Dear Ms. Darbouze:

The California Department of Fish and Wildlife (CDFW) has reviewed the Ladyface Vista Professional Center Project (Project) Mitigated Negative Declaration (MND) from the City of Agoura Hills (City). Supporting documentation for the Project includes a *Biological Resources Inventory and Impact Analysis* (BRIIA) dated May 2021 and Protected Oak Tree Report dated May 2021. CDFW appreciates the opportunity to provide comments and recommendations 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

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

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## Project Description and Summary

**Objective:** The proposed Project would develop the site with five (5) office buildings, 109 surface parking spaces, associated amenities, and landscaping. It is anticipated that the five (5) buildings will be arranged in the central portion of the property and the parking lot will be constructed along the perimeter of the subject buildings. There will be one (1) main driveway providing access to the Project site from Canwood Road.

**Location:** The proposed Project is located at 29555 Canwood Street, on a 3.23-acre hillside property (Assessor Parcel Number 2053-001-008), in the City of Agoura Hills. The site is currently undeveloped and is generally bound by undeveloped land to the north, Canwood Street to the south, office uses to the east, and Los Angeles County Fire Department Fire Station 89 to the west.

## 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.

### Comment #1: Impacts to Bat Species

**Issue:** The Project may impact several bat species that are potentially present on site.

**Specific impacts:** Project activities include tree encroachment and pruning that may disturb or remove areas that provide foraging or roosting habitat and therefore has the potential for the direct loss of bats. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground-disturbing activities (e.g., staging, mobilizing, and grading), and vibrations caused by heavy equipment.

**Why impacts would occur:** The removal of vegetation may potentially result in the loss or disturbance of foraging and roosting habitat for bats. According to the BRIIA, several species of bats may be potentially present on site. These species include pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis californicus*), and western red bat (*Lasiurus blossevillei*), which are all designated California Species of Special Concern (SSC). Construction activities will temporarily increase the disturbance levels as well as human activity in the Project area. Moreover, the Project may permanently remove potential foraging habitat for bats. Lastly, the general biological reconnaissance survey for the Project was conducted during daytime hours. Since bat species are most active at night between dusk and dawn, surveys conducted during the daytime would miss detection. Therefore, there is potential bats present on site that would be undetected. This may cause the Project to impact individuals not previously known to reside in or around the Project area. Bats would require more species-specific and specific time-of-day surveys.

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The MND does not provide any avoidance, minimization, or mitigation measures to prevent impacts to special status species. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect,

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and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

**Evidence impacts would be significant:** Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment, (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). There are many bat species that can be found year-round in urban areas throughout the south coast region of California (Miner & Stokes, 2005). Several bat species are considered SSC and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the City (CEQA Guidelines, § 15065).

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** Prior to construction activities, CDFW recommends a qualified bat specialist conduct bat surveys within the Project area (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species. A discussion of survey results, including negative findings should be provided to the City. Depending on the survey results, a qualified bat specialist should discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist should be completed and submitted to the City prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats.

**Mitigation Measure #2:** If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree pruning, trees should be pushed using heavy machinery prior to using a chainsaw for any limbing or trimming. To ensure the optimum warning for any roosting bats that may still be present, trees should be pushed lightly two or three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. A period of at least 24 hours, and preferable 48 hours, should elapse prior to such operations to allow bats to escape.

**Mitigation Measure #3:** If maternity roosts are found, work should be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are ready to fly out of the roost (March 1 to September 30).

### **Comment #2: Impacts on Special-Status Wildlife Species**

**Issue:** The Project may impact coastal whiptail (*Aspidoscelis tigris stejnegeri*), a designated SSC.

**Specific impacts:** Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (e.g., trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of special status wildlife species. Also, loss of foraging, breeding, or nursery habitat for SSC may occur.

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**Why impacts would occur:** The BRIIA identifies the coastal whiptail as having potential to be on site. As such, there is potential for the Project to impact this species. The MND does not provide any avoidance, minimization, or mitigation measures to prevent impacts to special status species. Without appropriate avoidance or minimization measures, impacts to special status species could result from ground-disturbing activities and vegetation removal. Wildlife may be trapped or crushed under structures. Large equipment, equipment and material staging, and vehicle and foot traffic could trample or bury wildlife. Special status species could be injured or killed. More specifically, impacts on reptile SSC are more likely to occur because these are cryptic species that are less mobile and seek refuge under structures.

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

**Evidence impacts would be significant:** A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022a).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).

#### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #4: Biological Monitor** – To avoid direct injury and mortality of any special status species, 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 would be injured or killed. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where any special status species was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution near flagged areas. A qualified biologist should be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of

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Project until the cessation of all ground disturbing activities to ensure that no wildlife of any kind is harmed.

**Mitigation Measure #5: Scientific Collecting Permit** – CDFW recommends the City require the Project Applicant retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022b). Pursuant to the [California Code of Regulations, title 14, section 650](#), the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.

**Mitigation Measure #6: Wildlife Relocation Plan** – Prior to initial ground and habitat disturbing activities and vegetation removal, CDFW recommends the Project Applicant retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan should describe all wildlife species that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan should include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant should submit a copy of a Wildlife Relocation Plan to the City prior to initial ground and habitat disturbing activities and vegetation removal. No wildlife nests, eggs, or nestlings may be removed or relocated at any time.

**Mitigation Measure #7: Injured or Dead Wildlife** – If any special status species are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

### **Comment #3: Impacts to Oak Trees**

**Issue:** The Project proposes to encroach upon and prune the canopy of two coast live oak (*Quercus agrifolia*) and two valley oak (*Quercus lobata*) trees.

**Specific impact:** The Protected Oak Tree report states, "All roots exposed during project grading shall be clean cut at a 45-degree angle and treated by the Project Arborist." It also states a total of 72.5 square feet total canopy of these four trees will be removed. Project activities that result in the removal of canopy or roots of trees may cause temporary or permanent impacts to the tree or wildlife that utilize the tree as habitat. In addition, Project activities that involve removal of trees or parts of trees have the potential to result in the spread

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of tree insect pests and disease into areas not currently exposed to these stressors.

**Why impacts would occur:** The Protected Oak Tree Report recommends several avoidance and minimization measures for oak trees. However, the measures, as currently proposed, may be insufficient for avoiding/minimizing impacts to protected trees and provide no mitigation for potential mortality as a result of Project impacts. These trees provide habitat for nesting birds and small mammals. Encroachment and pruning of trees on site may temporarily or permanently impact available habitat for wildlife in the area.

Trees #1, #2, #5, and #6 may be impacted by heavy vehicles and equipment and other Project activities. The routes of heavy construction vehicles within the Protected Zone of these trees can continually compact the root zone and roots may not be able to acquire nutrients, water, and oxygen, causing the tree to die (Hostetler and Drake 2009). Debris can be toxic or can change soil pH due to leaching of chemicals into the ground which could affect trees (Hostetler and Drake 2009).

Lastly, there is no proposed investigation and plan for managing tree pests or pathogens at the time of removal. This may result in the introduction of pests, pathogens, or diseases to areas where they previously have not been found.

**Evidence impacts would be significant:** Coast live oak and valley oak trees are of importance due to increased biological values and increased temporal loss. Oak trees have been known to provide nesting and perching habitat for approximately 170 species of birds (Griffin and Muick 1990). The loss of occupied habitat or reductions in the number of sensitive or special status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation.

Lastly, without a proper investigation and management plan, the Project may also result in an adverse effect, either directly or through habitat modifications, by exposing other habitats to insect and/or disease pathogens. Exposure to insect and/or disease pathogens may have a substantial adverse effect on any sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFW or United States Fish and Wildlife Service (USFWS).

#### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #8:** An infectious tree disease management plan should be developed and implemented prior to initiating Project activities. All trees scheduled for pruning should be inspected prior to start of those activities for contagious tree diseases including but not limited to: [thousand canker fungus](#) (*Geosmithia morbida*), [Polyphagous Shot Hole Borer](#) (*Euwallacea spp.*), and [goldspotted oak borer](#) (*Agrilus auroguttatus*) (TCD 2022; UCANR 2022; UCIPM 2013). To avoid the spread of infectious tree diseases, diseased trees, or any parts thereof, should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.

**Mitigation Measure #9:** CDFW recommends the Project avoid mechanical injury and compaction to roots, root flares, trunks, and branches under the dripline of any tree to be retained. A certified arborist should be present to observe the area with the roots exposed, prior to undertaking any root pruning or grading. The exposed tap root, main roots, and any surface-

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feeding roots exceeding one inch in diameter should be wrapped in protective moistened burlap during the excavation of existing pavement and buildings and during the re-grading phase and installation of the new parking lot. The root zone (under dripline) and 5 feet from the drip line should be excavated with hand tools, using a probe (metal rod or stick) to locate and unearth roots, leaving them in their natural orientation. CDFW recommends avoiding exposing roots as much as possible. If avoidance is not possible, work should be done as quickly as possible to expose the roots for as little time as possible and the roots will be reburied with clean fill as soon as is feasible (no longer than a day or so, if possible). The burlap will be kept moist. Efforts will be made to avoid cutting roots. If roots need to be cut, they will be cut with sharpened, clean, disinfected tools (10% bleach solution) with every effort to avoid tearing the root and to avoid tearing the root surface. A minimum distance of eight feet should be maintained of the root (distance from the root crown to terminal end of root), where possible.

**Mitigation Measure #10:** If any root disturbing activities are determined to have caused irreversible impacts that may eventually lead to decreased health or mortality of any oak tree, those activities and potential impacts should be documented immediately. All documentation should be summarized in a report provided to the City. Any oak trees that may succumb to impacts should be replaced with oak trees that are of the same species and variety.

**Mitigation Measure #11:** In the event that oak trees succumb to impacts, the City should work with a certified arborist and/or qualified restoration professional to select the most appropriate location for replacement species of oak tree. Oak trees should not be planted in specific location(s) that will be subject to future ground disturbance work that may impact replacement trees. Locations should have appropriate biological or physical factors required by oak trees to grow and persist where possible.

The City should work with a certified arborist and/or qualified restoration professional to acquire appropriately sized, locally sourced replacement oak trees from a local native plant nursery that implements *Phytophthora*/Clean Nursery Stock protocols. This may reduce the probability of introducing coast live oak trees contaminated with pests, diseases, and pathogens that could spread and infect native oak trees or habitats. A certified arborist and/or qualified restoration professional should inspect and potentially quarantine nursery stock before bringing them into the Project site and supervise the installation/transplanting of the oak trees.

**Mitigation Measure #12:** The City should protect and monitor the survivorship of planted oak trees until the trees begin to produce seeds. The City should consult with the certified arborist and/or qualified restoration professional on a long-term maintenance plan to provide protective caging, shading, and irrigation. Oak trees should be protected from trampling, damage, or climbing. The City should also consult with the certified arborist and/or qualified restoration professional if coast live oak trees show symptoms of stress and determine the appropriate response to prevent mortality.

**Mitigation Measure #13:** In the event that replacement trees are necessary, CDFW recommends a minimum mitigation ratio of 3:1 for impacts to oak trees. Coast live oak trees may be difficult to establish from seed or sapling, especially under drought conditions. A higher mitigation ratio would account for mortality and attrition of replacement coast live oak trees, and potential mortality of any oak trees marked for preservation. If all replacement trees survive and reach reproductive maturity, this will have a net benefit for birds.

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**Recommendation #1:** CDFW recommends the following sources for additional information about Clean Nursery Stock protocols and soilborne pathogens in the genus *Phytophthora* as discussed in Mitigation Measure #2.

- [Best Management Practices for Producing Clean Nursery Stock](#) provided by Phytosphere Research.
- [Understanding and Managing Sudden Oak Death in California](#) provided by Phytosphere Research.
- [A Reference Manual for Managing Sudden Oak Death](#) in California provided by the United States Department of Agriculture.

### Additional Recommendations

**Recommendation #2 Nesting Birds:** CDFW recommends modifying MM BIO-1 on page 40 & 41 of the MND to include underlined language and remove language with strikethrough.

~~“During construction–~~Construction activities, including but not limited to, grubbing, brushing, or tree removal shall be conducted outside of the State identified nesting season for migratory birds (i.e., typically ~~March 15~~ January 1 through September 15), if possible. If construction activities cannot be conducted outside the nesting season, a Pre-Construction Nesting Bird Survey within and adjacent to the Project site shall be conducted by a qualified biologist within three days prior to initiating construction activities. If active nests are found during the Pre-Construction Nesting Bird Survey, a Nesting Bird Plan (NBP) shall be prepared by a qualified biologist and implemented during construction. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, monitoring, and reporting. The buffer shall be demarcated and project activities within the buffer shall be postponed or halted, at the discretion of the biologist, until the nest is vacated, and juveniles have fledged, as determined by the biologist, and there is no evidence of a second attempt at nesting. The size and location of all buffer zones, if required, shall be based on the nesting species, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity.”

It should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence of a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.

**Recommendation #3 Construction Fencing:** CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be

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capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.

**Recommendation #4 Rodenticides:** CDFW recommends that rodenticides and second-generation anticoagulant rodenticides be prohibited both during and over the life of the Project.

**Recommendation #5 Data:** CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDB)] which 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 2022c). 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 data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.

**Recommendation #6 MMRP:** 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 Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

### Filing Fees

The Project, as proposed, could 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 Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

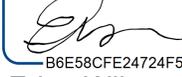
### Conclusion

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at (562) 292-8105 [Felicia.Silva@wildlife.ca.gov](mailto:Felicia.Silva@wildlife.ca.gov).

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Sincerely,

DocuSigned by:



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OPR

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#### References:

- [CDFWa] California Department of Fish and Wildlife. 2022. Species of Special Concern. Available from: <https://wildlife.ca.gov/Conservation/SSC>
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CDFW recommends the following language to be incorporated into a future environmental document for the Project.

<b>Biological Resources</b>			
	<b>Mitigation Measure</b>	<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1-Impacts to bat species</b>	Prior to construction activities, a qualified bat specialist shall conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be utilized to maximize detection of bat species to minimize impacts to sensitive bat species. A discussion of survey results, including negative findings shall be provided to the City. Depending on the survey results, a qualified bat specialist shall discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist shall be completed and submitted to the City prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>MM-BIO-2-Impacts to bat species</b>	If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal, trees should be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees should be pushed lightly two or three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

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	tree shall then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferable 48 hours, shall elapse prior to such operations to allow bats to escape.		
<b>MM-BIO-3-Impacts to bat species</b>	If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are ready to fly out of the roost (March 1 to September 30).	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>MM-BIO-4-Biological Monitor</b>	To avoid direct injury and mortality of any special status species, 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 would be injured or killed. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where any special status species was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist shall advise workers to proceed with caution near flagged areas. A qualified biologist shall be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of Project until the cessation of all ground disturbing activities to ensure that no wildlife of any kind is harmed.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>MM-BIO-5-Scientific Collecting Permit</b>	The City shall require the Project Applicant retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

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	<p>activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish &amp; G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's <a href="#">Scientific Collection Permits</a> webpage for information (CDFW 2022b). Pursuant to the <a href="#">California Code of Regulations, title 14, section 650</a>, the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities</p>		
<p><b>MM-BIO-6-Wildlife Relocation Plan</b></p>	<p>Prior to initial ground and habitat disturbing activities and vegetation removal, the Project Applicant shall retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan shall describe all wildlife species that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan shall include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant shall submit a copy of a Wildlife Relocation Plan to the City prior to initial ground and habitat disturbing activities and vegetation removal. No wildlife nests, eggs, or nestlings may be removed or relocated at any time.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

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<b>MM-BIO-7-Injured or Dead Wildlife</b>	If any special status species are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW and the City within three calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>MM-BIO-8-Tree Disease Management Plan</b>	An infectious tree disease management plan shall be developed and implemented prior to initiating Project activities. All trees scheduled for removal shall be identified and counted to provide total numbers and species type. In addition, trees scheduled for removal resulting from the Project shall be inspected for contagious tree diseases including but not limited to: <a href="#">thousand canker fungus</a> ( <i>Geosmithia morbida</i> ), <a href="#">Polyphagous Shot Hole Borer</a> ( <i>Euwallacea spp.</i> ), and <a href="#">goldspotted oak borer</a> ( <i>Agrilus auroguttatus</i> ) (TCD 2020; UCANR 2020; UCIPM 2013). To avoid the spread of infectious tree diseases, diseased trees shall not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>MM-BIO-9-Root Protection</b>	The Project shall avoid mechanical injury and compaction to roots, root flares, trunks, and branches under the dripline of any tree to be retained. A certified arborist shall be present to observe the area with the roots exposed, prior to undertaking any root pruning or grading. The exposed tap root, main roots and any	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

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	<p>surface-feeding roots exceeding one inch in diameter shall be wrapped in protective moistened burlap during the excavation of existing pavement and buildings and during the re-grading phase and installation of the new parking lot. The roots zone (under dripline) and 5 feet from the drip line shall be excavated with hand tools, using a probe (metal rod or stick) to locate and unearth roots, leaving them in their natural orientation. Work will be done as quickly as possible to expose the roots for as little time as possible and the roots will be reburied with clean fill as soon as is feasible (no longer than a day or so, if possible). The burlap will be kept moist. Efforts will be made to avoid cutting roots. If roots need to be cut, they will be cut with sharpened, clean, disinfected tools (10% bleach solution) with every effort to avoid tearing the root and to avoid tearing the root surface. A minimum distance of eight feet shall be maintained of the root (distance from the root crown to terminal end of root), where possible.</p>		
<p><b>MM-BIO-10-Root Protection</b></p>	<p>Protected trees damaged by construction shall be repaired in accordance with accepted arboriculture methods by a tree specialist. The project arborist shall determine when repair is required. These procedures may have a potential to cause decreased health (greater than 25% signs of visible stress) or mortality of any oak trees on site. If any root disturbing activities are determined to have caused irreversible impacts that may eventually lead to decreased health or mortality of any oak tree, those activities and potential impacts shall be documented immediately. All documentation shall be summarized in a report provided to the City. Any oak trees that may succumb to impacts shall be replaced with oak trees that are of the same species and variety.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

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<p><b>MM-BIO-11-Root Protection</b></p>	<p>In the event that oak trees succumb to impacts, the City shall work with a certified arborist and/or qualified restoration professional to select the most appropriate location for replacement species of oak tree. Oak trees shall not be planted in specific location(s) that will be subject to future ground disturbance work that may impact replacement trees. Locations shall have appropriate biological or physical factors required by oak trees to grow and persist where possible.</p> <p>The City shall work with a certified arborist and/or qualified restoration professional to acquire appropriately sized, locally sourced replacement oak trees from a local native plant nursery that implements <i>Phytophthora</i>/Clean Nursery Stock protocols. This may reduce the probability of introducing coast live oak trees contaminated with pests, diseases, and pathogens that could spread and infect native oak trees or habitats. A certified arborist and/or qualified restoration professional shall inspect and potentially quarantine nursery stock before bringing them into the Project site and supervise the installation/transplanting of the oak trees.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p><b>MM-BIO-12-Root Protection</b></p>	<p>The City shall protect and monitor the survivorship of planted oak trees until the trees begin to produce seeds. The City shall consult with the certified arborist and/or qualified restoration professional on a long-term maintenance plan to provide protective caging, shading, and irrigation. Oak trees shall be protected from trampling, damage, or climbing. The City shall also consult with the certified arborist and/or qualified restoration professional if coast live oak trees show symptoms of stress and determine the appropriate response to prevent mortality.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

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<p><b>MM-BIO-13-Root Protection</b></p>	<p>In the event that replacement trees are necessary, a minimum mitigation ratio of 3:1 for impacts to oak trees will be implemented. Coast live oak trees may be difficult to establish from seed or sapling, especially under drought conditions. A higher mitigation ratio would account for mortality and attrition of replacement coast live oak trees, and potential mortality of any oak trees marked for preservation. If all replacement trees survive and reach reproductive maturity, this will have a net benefit for birds.</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p><b>REC-1-Oak Tree Replacement</b></p>	<p>CDFW recommends the following sources for additional information about Clean Nursery Stock protocols and soilborne pathogens in the genus <i>Phytophthora</i></p> <ul style="list-style-type: none"> <li>• <a href="#">Best Management Practices for Producing Clean Nursery Stock</a> provided by Phytosphere Research.</li> <li>• <a href="#">Understanding and Managing Sudden Oak Death in California</a> provided by Phytosphere Research.</li> <li>• <a href="#">A Reference Manual for Managing Sudden Oak Death</a> in California provided by the United States Department of Agriculture.</li> </ul>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>
<p><b>REC-2-Nesting Birds</b></p>	<p>CDFW recommends modifying MM BIO-1 on page 40 &amp; 41 of the MND to include <u>underlined</u> language and remove language with strikethrough.</p> <p><del>“During construction</del> <u>Construction activities, including but not limited to</u>, grubbing, brushing, or tree removal shall be conducted outside of the State identified nesting season for migratory birds (i.e., typically <del>March 15</del> <u>January 1</u> through</p>	<p>Prior to Construction and/or ground disturbing activities</p>	<p>City of Agoura Hills</p>

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	<p>September 15), if possible. If construction activities cannot be conducted outside the nesting season, a Pre-Construction Nesting Bird Survey within and adjacent to the Project site shall be conducted by a qualified biologist within three days prior to initiating construction activities. If active nests are found during the Pre-Construction Nesting Bird Survey, a Nesting Bird Plan (NBP) shall be prepared by a qualified biologist and implemented during construction. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, monitoring, and reporting. <u>The buffer shall be demarcated and project activities within the buffer shall be postponed or halted, at the discretion of the biologist, until the nest is vacated, and juveniles have fledged, as determined by the biologist, and there is no evidence of a second attempt at nesting.</u> The size and location of all buffer zones, if required, shall be based on the nesting species, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity.”</p> <p>It should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern</p>		
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	and would further increase with the occurrence of a CESA-listed species.		
<b>REC-3-Construction Fencing</b>	Any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>REC-4-Rodenticides</b>	Rodenticides and second-generation anticoagulant rodenticides be prohibited both during and over the life of the Project.	Prior to Construction and/or ground disturbing activities	City of Agoura Hills
<b>REC-5-Data</b>	CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status	Prior to Construction and/or ground disturbing activities	City of Agoura Hills

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	<p>species detected by completing and submitting <a href="#">CNDDDB Field Survey Forms</a> (CDFW 2022c). 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 data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.</p>		
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