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DEPARTMENT OF FISH AND WILDLIFE  
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*GAVIN NEWSOM, Governor*  
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January 10, 2025

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**SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE GUAJOME LAKE HOMES PROJECT, SCH NO. 2022110028, SAN DIEGO COUNTY, CA**

Dear Robert Dmohowski:

The California Department of Fish and Wildlife (CDFW) reviewed the Draft Environmental Impact Report (DEIR) from the City of Oceanside (City) for the Guajome Lake Homes Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines<sup>1</sup>.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 (Fish & G. Code, § 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 fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise

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

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regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's 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<sup>2</sup> of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Oceanside has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the North County Subregional Multiple Habitat Conservation Program (MHCP) (San Diego Association of Governments 2003). The MHCP identifies critically important biological resources, which if lost to development, would result in significant specific or cumulative impacts within a given jurisdiction and across the MHCP subregion.

Unfortunately, the Oceanside SAP was not finalized and has not been adopted by the City nor has the City received permits from the Wildlife Agencies, CDFW and United States Fish and Wildlife Service (USFWS). The Focused Planning Area (FPA) nonetheless are considered highly relevant when evaluating the significance of biological resources on a given property within the cities comprising the MHCP planning effort.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Rincon Homes

**Objective:** The objective of the Project is to construct 83 single family homes through approval of a development plan, tentative map, and density bonus. Development would occur on approximately 9.86 acres of the 16.78-acre Project site. The primary access point, Guajome Lake Road, would be improved. Additional Project activities include 40-foot curb-to-curb improvements, consisting of a 5.5-foot parkway and a 4.5-foot sidewalk. Lastly, the internal private road would be 28-32 feet wide with 5-foot sidewalks. The homes would be developed in the southern portion of the Project site, which has been previously disturbed and graded. The northernmost portion, along the riparian corridor, would be preserved and avoided; thus, leaving approximately 3.77 acres as open space.

**Project Alternatives:** The DEIR provides three Project Alternatives: No Project Alternative, Townhome (Coastal Sage Scrub Impact Avoidance) Alternative, and Reduced Development Footprint Alternative. Under the No Project Alternative, the

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<sup>2</sup> "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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Project site would remain undeveloped, and the proposed Project and associated implementations would not be executed. Under the Townhome (Coastal Sage Scrub Impact Avoidance) Alternative, the development plan is revised to accommodate 90 townhome units on 5.98 acres in the Project site. This alternative allows for approximately 3 acres north of the Project site to remain as open space. Under the Reduced Development Footprint Alternative, 72 single-family homes would be constructed and impacts to coastal sage scrub would be minimized as the Project would push the development footprint approximately 30 feet south from the limits of the coastal sage scrub. An approximately 25-foot-high shoring wall would be required, which would result in permanent impacts to coastal sage scrub; however, the impacts would be reduced when compared to the proposed Project. The open space and recreation areas would be removed from the development plans. According to the DEIR, the USFWS has expressed their support for the Reduced Development Footprint Alternative.

**Location:** The Project site is primarily vacant and located in the Guajome Neighborhood Area of the City. The Project site is along the north side of Guajome Lake Road and east of Albright Street. The City of Vista is approximately 0.1 miles east of the Project site and State Route 76 is half a mile north. An unnamed stream runs through the northern portion of the Project site and drains into Guajome Lake, located half a mile west in Guajome Regional Park. The water ultimately leaves Guajome Lake to connect with the San Luis Rey River. The Assessor's Parcel Number associated with the Project site is 157-412-1500.

**Biological Setting:** The Project site is surrounded by residential development in the north, northwest, and east. In the south, the Project site is bounded by open space. The Project site's 50-foot planning buffer and 50-foot biological buffer overlaps partially with the FPA recognized in the MHCP and SAP. More specifically, the overlapped FPA is designated as a hardline preserve zone where it is specifically delineated with identified limits of development along with the corresponding on-site areas for conservation. The vegetation communities within the Project site are Diegan coastal sage scrub (2.20 acres), non-native grassland (8.87 acres), southern arroyo willow riparian forest (2.88 acres), non-native riparian (0.58 acres), and riparian forest (0.30 acres).

Dudek prepared a Biological Technical Report (BTR) which included vegetation mapping, and an aquatic resource delineation conducted in November 2021. Focused rare plant surveys were conducted in March and July 2022; no rare plant species were observed during surveys. Focused surveys for coastal California gnatcatcher (*Poliioptila californica californica*; California Species of Special Concern (SSC); Endangered Species Act (ESA) listed-threatened) and least Bell's vireo (*Vireo bellii pusillus*; ESA listed-endangered; CESA listed-endangered) were conducted from March to July of 2022. Cooper's hawk (*Accipiter cooperii*; CDFW Watch List species), white-tailed kite (*Elanus leucurus*; CDFW Fully Protected), yellow warbler (*Setophaga petechia*; SSC), and coastal California gnatcatcher were observed within the Project site. Specifically, focused surveys confirmed the presence of one gnatcatcher pair that successfully

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nested within the Diegan coastal sage scrub, with three fledglings observed with the adult pair during the final two site visits.

Sensitive species that are of potential concern for the Project include, but are not limited to, coastal California gnatcatcher, least Bell's vireo, southwestern willow flycatcher (*Empidonax traillii extimus*; ESA listed-endangered; CESA listed-endangered), Crotch's bumble bee (*Bombus crotchii*; CESA listed-candidate), thread-leaved brodiaea (ESA listed-threatened; CESA listed-endangered; California Rare Plant Rank (CRPR) 1B.1), western spadefoot (*Spea hammondi*; SSC), Southern California legless lizard (*Anniella stebbinsi*; SSC), San Diegan tiger whiptail (*Aspidoscelis tigris stejnegeri*; SSC), and nesting birds and raptors.

The DEIR proposes mitigation measures regarding off-site mitigation credits, landscaping, temporary installation fencing, environmental awareness training, work hours, best management practices, biological monitor requirements and duties, breeding season avoidance, general pre-construction surveys, nesting bird survey, coastal California gnatcatcher survey, California gnatcatcher nest avoidance and minimization measures, and Section 10 consultation.

**Project History:** In December 2022, CDFW provided comments on the Project's Notice of Preparation (NOP). In summary, there were comments regarding the Project setting, FPA, fuel modification, biological direct, indirect, and cumulative impacts, sensitive bird species, coastal California gnatcatcher, least Bell's vireo, a biological baseline assessment, wetland permitting obligations, and compensatory mitigation requirements. Some of our concerns in the NOP remain unresolved in the DEIR.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources and to ensure regional conservation objectives in the MHCP and draft Oceanside SAP would not be eliminated by implementation of the Project. We understand the City Council has voted not to adopt the draft SAP and that they released the Environmental Impact Report for the General Plan Update, which included provisions from the draft SAP; however, that plan is still not finalized nor is it subject to approval by the Wildlife Agencies. Additional comments or other suggestions may also be included to improve the document.

### **COMMENT # 1: Reduced Development Footprint Alternative**

**Issue:** CDFW supports the Reduced Development Footprint Alternative, as the Project's current design will result in significant impacts to Diegan coastal sage scrub and associated species.

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**Specific impact:** Impacts to 1.25 acres of Diegan coastal sage scrub will have direct and indirect effects to special-status species through loss of foraging and nesting habitat, and through inhibiting wildlife movement. Reducing the development footprint by implementing the Reduced Development Project Alternative would reduce these impacts to Diegan coastal sage scrub and special-status species.

**Why impact would occur:** CDFW concurs with the USFWS that adopting the Reduced Development Footprint Alternative would reduce impacts to Diegan coastal sage scrub and special-status species who use this habitat. Under this Alternative, the proposed Project would include fewer units and impacts to Diegan coastal sage scrub would be reduced. This would allow suitable habitat for coastal California gnatcatcher and SSC to remain on site. With more available habitat, nesting and foraging opportunities for wildlife would remain consistent with current site conditions.

Additionally, the proposed Project may inhibit wildlife movement and encroach into sensitive habitat due to fuel modification zones (see Comment #2 and #3). With additional available open space under this Alternative, the City would have the opportunity to provide on-site compensatory mitigation for impacts to Diegan coastal sage scrub and other sensitive habitats. This mitigation should provide a wildlife movement pathway from the riparian habitat in the northern area of the Project site to the southern area of the Project site, possibly circumventing the need for off-site mitigation.

**Evidence impact may be significant:** Section 15126.6(e)(2) of the State CEQA Guidelines requires that an EIR identify an environmentally superior alternative among the alternatives evaluated. The Reduced Project Alternative is an environmentally superior alternative, compared to the proposed Project, that would reduce the impacts to natural habitat that supports CESA- and ESA-listed species.

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

#### **Recommendation #1: Adoption of the Reduced Development Footprint Alternative**

CDFW strongly recommends the adoption of the Reduced Development Footprint Alternative for the Project.

#### **Recommendation #2: DEIR Reevaluation of Compensatory Mitigation**

CDFW recommends that, having adopted the Reduced Development Footprint Alternative, on-site compensatory mitigation be prioritized. Due to site constraints, if on site mitigation in its entirety is not feasible, off-site mitigation should be implemented with the coordination of the Wildlife Agencies. Details associated with the long-term management and monitoring plans of the Quarry Creek Mitigation Site were not provided in the DEIR. Therefore, CDFW is unable to provide helpful feedback to protect the biological resources impacted by the Project in terms of the off-site mitigation.

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CDFW welcomes coordination with the City and Project proponent to establish on-site mitigation to lessen significant impacts to the maximum extent feasible.

### **Mitigation Measure #1: On-Site Compensatory Mitigation**

Given that SSC and special-status wildlife species occur within the Project site, compensatory mitigation shall be provided for the temporary and permanent loss of any habitat supporting special-status species. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that support that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC or special-status wildlife species shall be distributed and approved by CDFW prior to Project activities. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

### **Mitigation Measure #2: Habitat Management and Monitoring Plan**

A qualified biologist shall be retained to draft a Habitat Management and Monitoring Plan (HMMP) and submit it to the City and CDFW for review and approval prior to Project activities. The HMMP shall outline initial and long-term management and maintenance activities that would occur on mitigation lands. The HMMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Maintenance activities outlined in the HMMP shall include measures pertaining to control of exotic vegetation, irrigation schedule, and protection from future maintenance activities.

### **COMMENT # 2: Wildlife Movement**

**Issue:** The Project may impact local wildlife movement.

**Specific impact:** Buildout of the Project site as outlined in the Project Description will isolate the on-site riparian forest, because the proposed development would surround the FPA and separate suitable habitat for special-status species in the south. Impacts on wildlife could result in habitat fragmentation, permanent loss of suitable habitat, limited wildlife movement, increased human disturbance, reproductive suppression during breeding season, and/or population decline of a special-status species.

**Why impact would occur:** One pair of coastal California gnatcatchers and three fledglings were observed in the Project site during focused surveys in the Diegan coastal sage scrub. Moreover, the DEIR states, "Diegan coastal sage scrub also

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supports a variety of birds, reptiles, invertebrates, and small mammals commonly found in upland scrub” (page 4.3-9). While the Project site is located outside the Wildlife Corridor Planning Zone designated by the SAP, it may still provide movement for wildlife due to the site’s proximity of Guajome Lake and Regional Park. Based on aerial imagery, it appears that the Project site allows wildlife species to move through the riparian habitat in the north. Additionally, the vacant Project site allows for movement south into more vacant habitats, connecting to Guajome Lake and Regional Park. Upon completion of the Project, wildlife movement would be constrained, and wildlife would be forced to move along the narrowed northern boundary of the Project site. Similarly, CDFW has concerns that species may be adversely impacted through edge effects from the loss of suitable habitat. The buildout of the proposed Project may not provide an effective buffer to neutralize edge effects as the undisturbed open space would restrict wildlife movement and may result in an increase in human disturbance. These indirect impacts should be discussed, analyzed, and mitigated for and reflected in the DEIR. In order to help address these indirect impacts, CDFW recommends the adoption of the Reduced Development Footprint Alternative (Comment #1). Conserving and restoring habitat connectivity and corridors is essential for mitigating impacts to special status species.

The DEIR states that movement is limited due to development on all sides; however, no wildlife movement study was conducted, nor was scientific data provided in the environmental document to demonstrate that wildlife movement would not be impacted by the Project. In addition to the physical constraints to wildlife movement, operational activities occurring 24 hours a day, seven days a week, may also deter wildlife from using the northern boundary. Without sufficient analyses and a wildlife movement study, the proposed Project may have significant impacts on local wildlife movement.

**Evidence impact may be significant:** Without a wildlife movement study, CDFW cannot ascertain whether this potential impact to biological resources is less than significant under CEQA. Technical details such as data, maps, diagrams, and similar relevant information should be provided to permit full assessment of significant environmental impacts by reviewing agencies and members of the public (CEQA Guidelines, §15147). In the case of this Project, CDFW believes a wildlife movement study falls within the category of “technical detail”.

Impacts on the special-status wildlife may require a mandatory finding of significance because the Project would potentially threaten to eliminate a plant or animal community and/or substantially reduce the number or restrict the range of endangered, rare, or threatened species (CEQA Guidelines, §15065). Habitat that supports wildlife movement and serves as wildlife migratory corridors are essential to the survival of many California species (Fish and Game Code §1955 (d)). With the increasing loss of suitable habitat and water sources on a local and regional scale, impacts to these biological resources would be considered significant impacts as a result of the Project.

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

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### **Recommendation #3: Wildlife Movement Revision**

CDFW recommends the environmental document be revised to include a wildlife movement study, which may include modeling based on data. The analysis of wildlife movement through the Project site should include (but are not limited to) habitat loss and fragmentation, narrowing of the wildlife corridor within the Project site, and the introduction of barriers to wildlife movement. CDFW recommends such an analysis be supported by studies to document wildlife activity and movement through the Project site with emphasis on where development is proposed. If wildlife movement were adversely impacted, the DEIR should provide measures to mitigate the Project's significant impact to local wildlife movement.

### **Mitigation Measure #3: Wildlife Corridor Mitigation**

If impacts to the wildlife corridor cannot be avoided, compensatory mitigation shall be provided for the temporal and permanent loss of habitat. Habitat shall be replaced at a ratio appropriate to maintain no net loss of habitat values, acreage, and function. The Wildlife Agencies shall be given the opportunity to review and provide feedback on any compensatory mitigation for loss of wildlife movement.

### **COMMENT # 3: Fuel Modification Zone**

**Issue:** The Project will impact Diegan coastal sage scrub through fuel modification activities within the 50-foot planning buffer of the site.

**Specific impact:** The DEIR does not clearly provide compensatory mitigation to offset the loss of habitat within the fuel modification zone. Impacts to native vegetation communities to create defensible space should be treated as permanent impacts to biological resources and mitigated as such.

**Why impact would occur:** The DEIR notes that the fuel modification zone is a, "...defensible space comprises an irrigated, well-maintained landscape that consists of fire-resistant plants within 30 feet of the building (Zone 1) and a thinned landscape in the areas between 30 and 100 feet (Zone 2) from the structures (where applicable)" (page 3-2). The proposed Zone 2 would require thinning of 0.16 acres of coastal sage scrub vegetation. This vegetation community provides suitable habitat for a variety of species including coastal California gnatcatcher and SSC within the Project site. Moreover, Figure 7 in the BTR depicts the proposed fuel modification zones lying within a coastal California gnatcatcher observed use area and where an observed nest was found.

The DEIR stated that, due to site constraints, the fuel modification zones do not achieve the standard Oceanside Fire Department widths of 100 feet. To offset this, the Fire Protection Plan (Appendix O) proposes certain building code-required elements and code-exceeding mitigation measures. While CDFW appreciates this discussion of the fuel modification zones, it is unclear if the biological impacts of the fuel modification



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zones were analyzed in the DEIR. Specifically, we are unclear if the impacts of fuel modification zones on Diegan coastal sage scrub were considered when crafting MM-BIO-1. It is important to note that fuel modification activities constitute ongoing impacts that will perpetually impact the plant communities and the species that depend on these natural communities. Indirect effects (e.g., noise) from fuel modification activities may also have an impact on wildlife that utilizes the open space that abuts the Project site. Given that fuel modification activities will result in ongoing direct and indirect impacts to natural resources within the Project site and surrounding open space, compensatory mitigation should be provided.

**Evidence impact may be significant:** Certain species are in danger of extinction because their habitats have been severely reduced in acreage, are threatened with destruction or adverse modification, or because of a combination of these and other factors. The CESA and NPPA provide additional protection for such species, including take prohibitions (Fish & G. Code, § 2050 et seq.; Fish & G. Code, § 1908). Inadequate avoidance, minimization, and mitigation measures for impacts to these CEQA locally sensitive vegetation communities 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 in local or regional plans, policies, or regulations, or by CDFW or USFWS.

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

##### **Recommendation #4: Fuel Modification Impacts**

The City should revise the DEIR to thoroughly describe the permanent impacts due to the implementation of the fuel modification zones. More specifically, compensatory mitigation exclusively relating to fuel modification zones should be included. CDFW recommends the City consult with the Wildlife Agencies for fuel modification strategies to limit impacts to biological resources.

##### **Mitigation Measure #4: Compensatory Mitigation**

The Project proponent shall provide compensatory mitigation for natural vegetation impacted within the fueling modification zone. At a minimum, the Project proponent shall demonstrate at least a 2:1 in-kind replacement ratio in the undisturbed areas of the Project site that is outside of the development footprint and fuel modification zone.

##### **COMMENT # 4: Impacts to Crotch's Bumble Bee**

**Issue:** The Project will impact suitable nesting and foraging habitat for Crotch's bumble bee. The DEIR did not discuss or provide a mitigation measure to minimize impacts to Crotch's bumble bee.

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**Specific impact:** The DEIR does not include survey results for presence or absence of Crotch's bumble bee, does not discuss potential impacts, or propose mitigation measures for this candidate listed CESA species. The Project may result in temporary impacts and permanent loss of suitable nesting and foraging habitat for Crotch's bumble bee.

**Why impact would occur:** According to CDFW's [Crotch's Bumble Bee Range – CDFW \[ds3095\]](#) dataset, the Project site lies within the current range for Crotch's bumble bee (CDFW 2024a). Diegan coastal sage scrub and grassland habitat within the Project site may provide suitable habitat to support Crotch's bumble bee. Moreover, the DEIR stated that rodent burrows have been observed within the area of potential effect. Crotch's bumble bees primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2012).

Given that the Project site is in the current range and has suitable habitat, there is potential for this CESA candidate species to be detected. No mitigation measures specific to Crotch's bumble bee were incorporated in the DEIR. If the Project proceeds without appropriate focused surveys, the Project may result in mortality and/or injury of undetected individual Crotch's bumble bee that may be present during Project activities. The Project's ground and vegetation disturbance could result in potentially significant impacts to Crotch's bumble bee, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality.

**Evidence impact would be significant:** Recently, the California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). CDFW considers impacts to species that are candidates for CESA listing to be significant, under CEQA. Accordingly, the Project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

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

#### **Recommendation #5: Crotch's Bumble Bee Discussion**

The DEIR should be revised to provide a thorough discussion on the Project's potential direct and indirect impacts on Crotch's bumble bee. If the Project may impact Crotch's bumble bee, the DEIR should be amended to incorporate measures to minimize, and/or mitigate potential impacts to Crotch's bumble bee as well as habitat supporting the

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species. The discussion should be of a depth and scope that a CESA Incidental Take Permit (ITP) can be issued based on the analysis provided in the final EIR.

#### **Recommendation #6: CEQA**

CDFW's issuance of an ITP for a Project is subject to CEQA. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/Project proponent for the Project. However, additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 2081 and/or under CEQA, the Project's CEQA document should fully identify the potential impacts to Crotch's bumble bee and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.

#### **Mitigation Measure #5: Crotch's Bumble Bee Surveys**

The Project proponent shall retain a qualified entomologist with the appropriate handling permits to conduct focused surveys. Focused surveys shall follow CDFW's [Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species](#) (CDFW 2023). Focused surveys shall also be conducted throughout the entire Project site and during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.

#### **Mitigation Measure #6: Incidental Take Permit**

If Crotch's bumble bee is detected on site, the Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization to the City prior to implementing Project ground-disturbing activities and vegetation removal.

#### **COMMENT # 5: Impacts on Rare Plants**

**Issue:** The DEIR does not discuss or provide mitigation measures to reduce impacts to rare plant species.

**Specific impact:** The Project may impact suitable habitat for thread-leaved brodiaea and may directly or indirectly impact rare plant species. The DEIR does not provide a mitigation measure to minimize and avoid impacts to rare plant species if found within the impact area.

**Why impact would occur:** There is potential for thread-leaved brodiaea to occur due to suitable coastal sage scrub and grassland habitat in the Project site. There were also

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observations on the California Natural Diversity Database (CNDDDB) of rare plant species occurring within one mile of the Project site (CDFW 2024b). Project activities, such as vegetation removal and soil excavation, may result in adverse impacts to special-status plant species without an avoidance, minimization, and mitigation measure. Additionally, as focused surveys were conducted in 2022, rare plant species may have now taken resident in the Project site. CDFW recommends updated rare plant focused surveys be conducted and adhere to Mitigation Measure #7 (below). Impacts to rare plants such as removal of habitat or loss of population would be considered significant under CEQA.

**Evidence impact may be significant:** Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Consistent with CEQA Guidelines section 15380, thread-leaved brodiaea as an endangered species under CESA qualifies it as an endangered, rare, or threatened species under CEQA and should be treated as such. Additionally, thread-leaved brodiaea is a rare plant with a CRPR of 1B.1. Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened.

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 Project and environmental document should be conditioned to avoid and/or mitigate for potential impacts to thread-leaved brodiaea if present. 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.

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

#### **Mitigation Measure #7: Rare Plant Survey**

Within one year prior to the commencement of ground-disturbing activities, habitat assessment surveys for the special-status plants shall be conducted by a qualified botanist. Surveys shall be in accordance with the [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018) and [Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants](#) (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 100-foot-wide buffer around them prior to the commencement of activities that may cause disturbance.

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### **Mitigation Measure #8: Compensatory Mitigation**

If rare plants, such as plants with a CRPR of 1 or 2 are observed in the impact area and cannot be avoided, no Project activities shall commence, and the City shall coordinate with CDFW to discuss avoidance of the rare plants on site. If complete avoidance is unattainable, the Project proponent shall provide compensatory mitigation to offset the Project's impact on rare plants observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of thread-leaved brodiaea, and/or other rare plant species, are located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Government Code § 65967(c). Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands.

### **COMMENT # 6: Impacts on SSC**

**Issue:** The DEIR does not discuss thorough SSC potential impacts due to Project activities, nor does it discuss avoidance, minimization, or mitigation measures for SSC species.

**Specific impact:** Direct impacts to SSC could result from Project construction and activities; ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic. Additionally, the Project would result in permanent loss of suitable habitat.

**Why impact would occur:** On-site vegetation provides suitable habitat for SSC, such as western spadefoot, Southern California legless lizard, and San Diegan tiger whiptail. Impacts to these habitats and the subsequent potential impacts on SSC are not assessed in the environmental document. Additionally, the BTR does not include updated biological surveys for presence within the Project site. Due to surveys being conducted in 2022, SSC may occur within the Project site during the time of construction. There are other ways in which the analysis and discussion of impacts on SSC is incomplete. While there is potential for these SSC to be present on site during Project activities, the DEIR does not provide an adequate mitigation measure to avoid direct or indirect impacts to them. Given that habitat loss on a local and regional scale is a major cause of population decline for SSC, removal of confirmed SSC habitat would be considered a significant impact and should be mitigated properly.

**Evidence impact 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:

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1. if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
2. if the species is listed as threatened or endangered under ESA-, but not CESA-, threatened, or endangered;
3. if the species meets the State definition of threatened or endangered but has not formally been listed;
4. if the species 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
5. if 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 2024c).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that 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). The DEIR does not provide mitigation for potential impacts on SSC. 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.

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

#### **Recommendation #7: Updated General Field Surveys**

The BTR included field surveys conducted for special-status plant and wildlife species in 2022. 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. In addition, it is possible that wildlife not previously observed on site are now residents and/or use the Project site for breeding, nesting, or foraging. For these reasons, CDFW strongly recommends the City require the Project proponent to retain a qualified biologist to perform an updated biological survey to account for the current state of the Project site and the inventory of biological species that may be present. The survey should be conducted at the appropriate time of year and time of day when sensitive species are active or otherwise identifiable for both wildlife and plants. Based on the survey results, the final CEQA document should propose avoidance and specific mitigation for Project impacts to special-status species. Findings from the updated general field surveys should be disclosed in the CEQA document for public review.

**Mitigation Measure #9: General Pre-Construction Surveys** - The City shall revise MM-BIO-9 to incorporate the underlined language and omit the language in strikethrough:

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~~Take of birds protected under the Migratory Bird Treaty Act and California Fish and Game Code shall be avoided during the nesting season.~~ Within 72 hours of Project related activities, a qualified biologist with the appropriate handling permits shall conduct a survey to determine the presence of potential rare, listed, or other special-status wildlife species. The qualified biologist shall survey the proposed impact areas and a 50-foot buffer. The pre-construction surveys shall incorporate appropriate methods and timing to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil. Should a special-status species be located in the Project site during pre-activity surveys all individuals shall be documented and locations of presence recorded. If a special-status species is found, the qualified biologist shall contact the Wildlife Agencies, and the species shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires special-status species to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring.

#### **COMMENT # 7: Impacts on Nesting Birds and Raptors**

**Issue:** Mitigation Measures BIO-7 and BIO-9 may be improved to ensure adequate surveys occur prior to the start of construction.

**Specific impact:** Project activities such as tree removal and vegetation clearing may result in mortality or injury to individual birds and raptors present within the Project site. Additionally, Project activities during breeding season of nesting birds could result in nest abandonment and/or incidental loss of fertile eggs or nestlings.

**Why impact would occur:** Cooper's hawk, white-tailed kite, yellow warbler, and coastal California gnatcatcher were observed within the Project site due to the riparian habitat, Diegan coastal sage scrub habitat, and trees present within the Project site. These species, and other potential bird species like least Bell's vireo and southwestern willow flycatcher, have moderate to high potential to forage within the Project site during the time of construction.

Bird species can construct nests and begin laying eggs in less than seven days. Therefore, a pre-construction nesting bird survey scheduled within 14 days prior to construction may miss some instances of nesting. To minimize the chances of missing nests, CDFW recommends scheduling the survey within three days before the start of ground disturbing activities.

**Evidence impact would be significant:** Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy

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any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act.

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

**Mitigation Measure #10: Biological Monitor Requirements and Duties** - The City shall revise MM-BIO-7 to incorporate the underlined language and omit the language in strikethrough:

A qualified biologist shall be on site daily during initial clearing/grubbing and weekly during grading activities within 500 feet of preserved habitat to ensure compliance with all Project-imposed mitigation measures. The biologist shall be available during pre-construction and construction phases to review grading plans, address protection of sensitive biological resources, monitor ongoing work, and maintain communications with the Project's engineer to ensure that issues relating to coastal California gnatcatcher, least Bell's vireo, and their habitat are appropriately and lawfully managed. ~~The biological monitor should flush birds out of habitat areas before they are cleared.~~

The qualified biological monitor shall also be responsible for the following duties:

1. Oversee installation of and inspect temporary fencing and erosion control measures within or up-slope of avoided and/or preserved areas a minimum of once per week during installation and daily during all rain events until established to ensure that any breaks in the fence or erosion control measures are repaired immediately.
2. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.
3. Halt work, if necessary, and confer with the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and City of Oceanside (City) to ensure the proper implementation of species and habitat protection measures. The biologist shall report any violation to USFWS, CDFW, and the City within 24 hours of its occurrence.
4. Submit weekly letter reports (including photographs of impact areas) via email to the City during clearing/grubbing of potential habitat and/or Project construction resulting in ground disturbance within 500 feet of avoided potential habitat. The weekly reports shall document that authorized impacts were not exceeded and general compliance with all conditions. The reports shall also outline the duration of monitoring, the location of construction activities, the type of construction that occurred, and equipment used. These reports shall specify numbers and locations of any coastal California gnatcatchers/least Bell's vireo and nests, sex, observed behavior (especially in relation to construction activities), and remedial



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measures employed to avoid, minimize, and mitigate impacts to coastal California gnatcatchers/least Bell's vireo and nests.

Submit a final report to the City within 60 days of Project completion that includes the following: (1) as-built construction drawings for grading with an overlay of any active nests; (2) photographs of habitat areas during pre-construction and post-construction conditions; and (3) other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with the avoidance/minimization provisions and monitoring program as required by USFWS and CDFW were achieved.

**Mitigation Measure #11: Nesting Bird Survey** - The City shall revise MM-BIO-9 Nesting Bird Survey to incorporate the underlined language and omit the language in strikethrough:

To avoid any direct and indirect impacts to raptors and/or any migratory birds, grubbing and clearing of vegetation that may support active nests and construction activities adjacent to nesting habitat will occur outside of the breeding season (February 15 to August 31). Take of birds protected under the Migratory Bird Treaty Act and California Fish and Game Code shall be avoided during the nesting season. If removal of habitat and/or construction activities is necessary adjacent to nesting habitat during the breeding season, the applicant shall retain a City-approved biologist to conduct a pre-construction survey to determine the presence or absence of non-listed nesting migratory birds on or within 300 feet of the construction area, and federally- or State-listed birds and raptors on or within 500 feet of the construction area. The pre-construction survey must be conducted within ~~40~~ 3 calendar days prior to the start of construction, the results of which must be submitted to the City for review and approval prior to initiating any construction activities. If nesting birds are detected by the City-approved biologist, the following buffers shall be established: 1) no work within 300 feet of a non-listed nesting migratory bird nest, and 2) no work within 500 feet of a listed bird or raptor nest. However, the City may reduce these buffer widths depending on site-specific conditions (e.g. the width and type of screening vegetation between the nest and proposed activity) or the existing ambient level of activity (e.g., existing level of human activity within the buffer distance). If construction must take place within the recommended buffer widths above, the project applicant will contact the City and Wildlife Agencies to determine the appropriate buffer.

## **ADDITIONAL COMMENTS**

**Fully Protected Species.** The DEIR notes that white-tailed kite was observed and there is potential for this Fully Protected species to forage within the Project site. Fully Protected Species may not be taken or possessed at any time according to the Fish and Game Code § 3511. CDFW cannot authorize take for white-tailed kite and the City must completely avoid impacts to these species during Project's construction and operational activities. CDFW recommends that the final EIR contain a discussion of full avoidance of impacts to white-tailed kite and include a mitigation measure, if appropriate.

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**Mitigation and Monitoring Reporting Plan.** CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency 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 a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations 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 natural communities detected during Project surveys to the CNDDDB. The [CNDDDB website](#)<sup>3</sup> provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

In addition, information on special-status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)<sup>4</sup>.

The City should ensure data collected for the preparation of the DEIR is properly submitted.

## **FILING FEES**

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

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments

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<sup>3</sup> <https://wildlife.ca.gov/Data/CNDDDB>


<sup>4</sup> <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Joleena De La Fe<sup>5</sup>, Environmental Scientist.

Sincerely,

DocuSigned by:  
  
5991E19EF8094C3...

Victoria Tang  
Environmental Program Manager  
South Coast Region

## ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife  
Victoria Tang (CDFW EPM)  
Jennifer Turner (CEQA Supervisor)  
Melanie Burlaza (NCCP supervisor)  
Joleena De La Fe (CEQA staff)  
Emily Gray (NCCP staff)

Office of Planning and Research  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

## REFERENCES

[CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available from:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

[CDFW] California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

[CDFW] California Department of Fish and Wildlife. 2024a. Crotch's Bumble Bee Range Dataset 3095. Available at: <https://data.ca.gov/dataset/crotchs-bumble-bee-range-cdfw-ds3095>

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<sup>5</sup> Phone: 858-354-3527; Email: [Joleena.delafe@wildlife.ca.gov](mailto:Joleena.delafe@wildlife.ca.gov)

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[CDFW] California Department of Fish and Wildlife. 2024b. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDB>

[CDFW] California Department of Fish and Wildlife. 2024c. Species of Special Concern. Available from: <https://wildlife.ca.gov/Conservation/SSC>

Final MHCP Executive Summary. 2003. Multiple Habitat Conservation Program for the Cities of Carlsbad, Escondido, Oceanside, San Marcos, Solana Beach, and Vista.

Hatfield, R, S Jepsen, E Mader, S H Black, and M Shepherd. 2012. Conserving Bumble Bees Guidelines for Creating and Managing Habitat for America's Declining Pollinators. Portland, OR: The Xerces Society for Invertebrate Conservation

[UFWS] US. Fish & Wildlife Service. 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants. Available from: [https://cnps.org/wp-content/uploads/2019/10/Bot-Cert\\_US-Fish-and-Wildlife-Service-guidelines-botanical-inventories-LR.pdf](https://cnps.org/wp-content/uploads/2019/10/Bot-Cert_US-Fish-and-Wildlife-Service-guidelines-botanical-inventories-LR.pdf)

Williams, P H, R W Thorp, L L Richardson, and S R Colla. 2014. Bumble Bees of North America: An Identification Guide. Princeton University Press.

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**ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

CDFW provides the following language to be incorporated into the MMRP for the Project.

<b>Mitigation Measure</b>	<b>Timing</b>	<b>Responsible Party</b>
<p><b>Recommendation #1: Adoption of the Reduced Development Footprint Alternative</b></p> <p>CDFW strongly recommends the adoption of the Reduced Development Footprint Alternative for the Project.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p><b>Recommendation #2: DEIR Reevaluation of Compensatory Mitigation</b></p> <p>CDFW recommends that, having adopted the Reduced Development Footprint Alternative, on-site compensatory mitigation be prioritized. Due to site constraints, if on site mitigation in its entirety is not feasible, off-site mitigation should be implemented with the coordination of the Wildlife Agencies. Details associated with the long-term management and monitoring plans of the Quarry Creek Mitigation Site were not provided in the DEIR. Therefore, CDFW is unable to provide helpful feedback to protect the biological resources impacted by the Project in terms of the off-site mitigation. CDFW welcomes coordination with the City and Project proponent to establish on-site mitigation to lessen significant impacts to the maximum extent feasible.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p><b>Mitigation Measure #1: On-Site Compensatory Mitigation</b></p> <p>Given that SSC and special-status wildlife species occur within the Project site, compensatory mitigation shall be provided for the temporary and permanent loss of any habitat supporting special-status species. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency / Project Proponent</p>

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<b>Mitigation Measure</b>	<b>Timing</b>	<b>Responsible Party</b>
<p>provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that support that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC or special-status wildlife species shall be distributed and approved by CDFW prior to Project activities. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.</p>		
<p><b>Mitigation Measure #2: Habitat Management and Monitoring Plan</b></p> <p>A qualified biologist shall be retained to draft a Habitat Management and Monitoring Plan (HMMP) and submit it to the City and CDFW for review and approval prior to Project activities. The HMMP shall outline initial and long-term management and maintenance activities that would occur on mitigation lands. The HMMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Maintenance activities outlined in the HMMP shall include measures pertaining to control of exotic vegetation, irrigation schedule, and protection from future maintenance activities.</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>
<p><b>Recommendation #3: Wildlife Movement Revision</b></p> <p>CDFW recommends the environmental document be revised to include a wildlife movement study, which may include modeling based on data. The analysis of wildlife</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>

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<b>Mitigation Measure</b>	<b>Timing</b>	<b>Responsible Party</b>
<p>movement through the Project site should include (but are not limited to) habitat loss and fragmentation, narrowing of the wildlife corridor within the Project site, and the introduction of barriers to wildlife movement. CDFW recommends such an analysis be supported by studies to document wildlife activity and movement through the Project site with emphasis on where development is proposed. If wildlife movement were adversely impacted, the DEIR should provide measures to mitigate the Project's significant impact to local wildlife movement.</p>		
<p><b>Mitigation Measure #3: Wildlife Corridor Mitigation</b></p> <p>If impacts to the wildlife corridor cannot be avoided, compensatory mitigation shall be provided for the temporal and permanent loss of habitat. Habitat shall be replaced at a ratio appropriate to maintain no net loss of habitat values, acreage, and function. The Wildlife Agencies shall be given the opportunity to review and provide feedback on any compensatory mitigation for loss of wildlife movement.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p><b>Recommendation #4: Fuel Modification Impacts</b></p> <p>The City should revise the DEIR to thoroughly describe the permanent impacts due to the implementation of the fuel modification zones. More specifically, compensatory mitigation exclusively relating to fuel modification zones should be included. CDFW recommends the City consult with the Wildlife Agencies for fuel modification strategies to limit impacts to biological resources.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p><b>Mitigation Measure #4: Compensatory Mitigation</b></p> <p>The Project proponent shall provide compensatory mitigation for natural vegetation impacted within the fueling modification zone. At a minimum, the Project proponent</p>	<p>Prior to Project Initiation</p>	<p>Project Proponent / Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p>shall demonstrate at least a 2:1 in-kind replacement ratio in the undisturbed areas of the Project site that is outside of the development footprint and fuel modification zone.</p>		
<p><b>Recommendation #5: Crotch’s Bumble Bee Discussion</b></p> <p>The DEIR should be revised to provide a thorough discussion on the Project’s potential direct and indirect impacts on Crotch’s bumble bee. If the Project may impact Crotch’s bumble bee, the DEIR should be amended to incorporate measures to minimize, and/or mitigate potential impacts to Crotch’s bumble bee as well as habitat supporting the species. The discussion should be of a depth and scope that a CESA Incidental Take Permit (ITP) can be issued based on the analysis provided in the final EIR.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p><b>Recommendation #6: CEQA</b></p> <p>CDFW’s issuance of an ITP for a Project is subject to CEQA. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/Project proponent for the Project. However, additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 2081 and/or under CEQA, the Project’s CEQA document should fully identify the potential impacts to Crotch’s bumble bee and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p><b>Mitigation Measure #5: Crotch’s Bumble Bee Surveys</b></p> <p>The Project proponent shall retain a qualified entomologist with the appropriate handling permits to conduct focused surveys. Focused surveys shall follow CDFW’s <a href="#">Survey Considerations for California Endangered Species Act Candidate Bumble Bee</a></p>	<p>Prior to Project Initiation</p>	<p>Project Proponent /</p>



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Mitigation Measure	Timing	Responsible Party
<p><a href="#">Species</a> (CDFW 2023). Focused surveys shall also be conducted throughout the entire Project site and during the appropriate flying season to ensure no missed detection of Crotch’s bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.</p>		Qualified Biologist
<p><b>Mitigation Measure #6: Incidental Take Permit</b></p> <p>If Crotch’s bumble bee is detected on site, the Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish &amp; Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization to the City prior to implementing Project ground-disturbing activities and vegetation removal.</p>	Prior to Project Initiation / During Project Construction	Project Proponent
<p><b>Mitigation Measure #7: Rare Plant Survey</b></p> <p>Within one year prior to the commencement of ground-disturbing activities, habitat assessment surveys for the special-status plants shall be conducted by a qualified botanist. Surveys shall be in accordance with the <a href="#">Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</a> (CDFW 2018) and <a href="#">Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants</a> (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 100-foot-wide buffer around them prior to the commencement of activities that may cause disturbance.</p>	Prior to Project Initiation	Qualified Biologist

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Mitigation Measure	Timing	Responsible Party
<p><b>Mitigation Measure #8: Compensatory Mitigation</b></p> <p>If rare plants, such as plants with a CRPR of 1 or 2 are observed in the impact area and cannot be avoided, no Project activities shall commence, and the City shall coordinate with CDFW to discuss avoidance of the rare plants on site. If complete avoidance is unattainable, the Project proponent shall provide compensatory mitigation to offset the Project’s impact on rare plants observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of thread-leaved brodiaea, and/or other rare plant species, are located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Government Code § 65967(c). Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands.</p>	<p>Prior to Project Initiation / During Project Construction</p>	<p>Lead Agency / Project Proponent</p>
<p><b>Recommendation #7: Updated General Field Surveys</b></p> <p>The BTR included field surveys conducted for special-status plant and wildlife species in 2022. 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. In addition, it is possible that wildlife not previously observed on site are now residents and/or use the Project site for breeding, nesting, or foraging. For these reasons, CDFW strongly recommends the City require the Project proponent to retain a qualified biologist to perform an updated biological survey to</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency / Project Proponent / Qualified Biologist</p>

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Mitigation Measure	Timing	Responsible Party
<p>account for the current state of the Project site and the inventory of biological species that may be present. The survey should be conducted at the appropriate time of year and time of day when sensitive species are active or otherwise identifiable for both wildlife and plants. Based on the survey results, the final CEQA document should propose avoidance and specific mitigation for Project impacts to special-status species. Findings from the updated general field surveys should be disclosed in the CEQA document for public review.</p>		
<p><b>Mitigation Measure #9: General Pre-Construction Surveys</b> - The City shall revise MM-BIO-9 to incorporate the <u>language</u> and omit the language in <del>strikethrough</del>:</p> <p><del>Take of birds protected under the Migratory Bird Treaty Act and California Fish and Game Code shall be avoided during the nesting season. Within 72 hours of Project related activities, a qualified biologist with the appropriate handling permits shall</del> <u>conduct a survey to determine the presence of potential rare, listed, or other special-status wildlife species. The qualified biologist shall survey the proposed impact areas and a 50-foot buffer. The pre-construction surveys shall incorporate appropriate methods and timing to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil. Should a special-status species be located in the Project site during pre-activity surveys all individuals shall be documented and locations of presence recorded. If a special-status species is found, the qualified biologist shall contact the Wildlife Agencies, and the species shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires special-status species to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The</u></p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p><u>list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring.</u></p>		
<p><b>Mitigation Measure #10: Biological Monitor Requirements and Duties</b> - The City shall revise MM-BIO-7 to incorporate the <u>underlined</u> language and omit the language in strikethrough:</p> <p>A qualified biologist shall be on site daily during initial clearing/grubbing and weekly during grading activities within 500 feet of preserved habitat to ensure compliance with all Project-imposed mitigation measures. The biologist shall be available during pre-construction and construction phases to review grading plans, address protection of sensitive biological resources, monitor ongoing work, and maintain communications with the Project’s engineer to ensure that issues relating to coastal California gnatcatcher, least Bell’s vireo, and their habitat are appropriately and lawfully managed. <del>The biological monitor should flush birds out of habitat areas before they are cleared.</del></p> <p>The qualified biological monitor shall also be responsible for the following duties:</p> <ol style="list-style-type: none"> <li>1. Oversee installation of and inspect temporary fencing and erosion control measures within or up-slope of avoided and/or preserved areas a minimum of once per week during installation and daily during all rain events until established to ensure that any breaks in the fence or erosion control measures are repaired immediately.</li> <li>2. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.</li> <li>3. Halt work, if necessary, and confer with the U.S. Fish and Wildlife Service (USFWS), <u>California Department of Fish and Wildlife (CDFW)</u>, and City of</li> </ol>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p>Oceanside (City) to ensure the proper implementation of species and habitat protection measures. The biologist shall report any violation to USFWS, <u>CDFW</u>, and the City within 24 hours of its occurrence.</p> <p>4. Submit weekly letter reports (including photographs of impact areas) via email to the City during clearing/grubbing of potential habitat and/or Project construction resulting in ground disturbance within 500 feet of avoided potential habitat. The weekly reports shall document that authorized impacts were not exceeded and general compliance with all conditions. The reports shall also outline the duration of monitoring, the location of construction activities, the type of construction that occurred, and equipment used. These reports shall specify numbers and locations of any coastal California gnatcatchers/least Bell's vireo and nests, sex, observed behavior (especially in relation to construction activities), and remedial measures employed to avoid, minimize, and mitigate impacts to coastal California gnatcatchers/least Bell's vireo and nests.</p> <p>Submit a final report to the City within 60 days of Project completion that includes the following: (1) as-built construction drawings for grading with an overlay of any active nests; (2) photographs of habitat areas during pre-construction and post-construction conditions; and (3) other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with the avoidance/minimization provisions and monitoring program as required by USFWS and <u>CDFW</u> were achieved.</p>		
<p><b>Mitigation Measure #11: Nesting Bird Survey</b> - The City shall revise MM-BIO-9 Nesting Bird Survey to incorporate the <u>underlined</u> language and omit the language in strikethrough:</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p>To avoid any direct and indirect impacts to raptors and/or any migratory birds, grubbing and clearing of vegetation that may support active nests and construction activities adjacent to nesting habitat will occur outside of the breeding season (February 15 to August 31). <u>Take of birds protected under the Migratory Bird Treaty Act and California Fish and Game Code shall be avoided during the nesting season.</u> If removal of habitat and/or construction activities is necessary adjacent to nesting habitat during the breeding season, the applicant shall retain a City-approved biologist to conduct a pre-construction survey to determine the presence or absence of non-listed nesting migratory birds on or within 300 feet of the construction area, and federally- or State-listed birds and raptors on or within 500 feet of the construction area. The pre-construction survey must be conducted within <del>40</del> <u>3</u> calendar days prior to the start of construction, the results of which must be submitted to the City for review and approval prior to initiating any construction activities. If nesting birds are detected by the City-approved biologist, the following buffers shall be established: 1) no work within 300 feet of a non-listed nesting migratory bird nest, and 2) no work within 500 feet of a listed bird or raptor nest. However, the City may reduce these buffer widths depending on site-specific conditions (e.g. the width and type of screening vegetation between the nest and proposed activity) or the existing ambient level of activity (e.g., existing level of human activity within the buffer distance). If construction must take place within the recommended buffer widths above, the project applicant will contact the City and Wildlife Agencies to determine the appropriate buffer.</p>		