



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 19, 2024

Amy Nicholson, Supervising Planner - Advance Planning
City of Santa Rosa Planning and Economic Development Department
100 Santa Rosa Avenue
Santa Rosa, CA 95404
ANicholson@srcity.org

Subject: Santa Rosa General Plan 2050 Project, Draft Program Environmental Impact Report, SCH No. 2023020166, City of Santa Rosa, Sonoma County

Dear Ms. Nicholson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of the Draft Program Environmental Impact Report (EIR) from the City of Santa Rosa (City) for the Santa Rosa General Plan 2050 Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted a letter dated March 2, 2023 in response to the EIR Notice to Preparation (NOP) for the Project.

CDFW is submitting comments on the EIR to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the Project. **The City is a participant in the planned Sonoma County Natural Community Conservation Plan/Habitat Conservation Plan and an adequate Program EIR protective of biological resources, including CDFW's comments presented in this letter, may facilitate this process.**

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

¹ 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.

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 2

PROJECT DESCRIPTION SUMMARY

Proponent: City of Santa Rosa

Objective: The Project would replace the City's existing General Plan, which was last comprehensively updated in 2009 and has a buildout horizon of 2035. The proposed Project is intended to guide development and conservation in the City. The proposed General Plan 2050 would build off the current General Plan 2035 and provide a direct framework for the upcoming changes in the City and the expected growth in the coming decades; as well as land use, transportation, and conservation decisions through the horizon year of 2050.

Location: The approximately 49-square-mile planning area, which includes the City of Santa Rosa and its Sphere of Influence, with an approximate center at 38.445699°N, 122.717849°W.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed or candidates for listing under CESA, either during construction or over the life of the project. **The Project has the potential to result in take of California tiger salamander (*Ambystoma californiense*), which is CESA listed as threatened, Coho salmon (*Oncorhynchus kisutch*), which is CESA listed as endangered, California freshwater shrimp (*Syncaris pacifica*), which is CESA listed as endangered, Northern Spotted Owl (*Strix occidentalis caurina*), which is CESA listed as threatened, and several plant species listed in the EIR Table 4.4-2 including, but not limited to, Sonoma sunshine (*Blennosperma bakeri*), Sebastopol meadowfoam (*Limnanthes vinculans*), and Burke's goldfields (*Lasthenia burkei*), which are CESA listed as endangered species, and burrowing owl (*Athene cunicularia*), which is a CESA candidate species, as further described below.** Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC).

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 3

The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. **Project activities may impact streams or lakes, therefore an LSA Notification may be warranted, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. CDFW would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below and in **Attachment 1** 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.

I. Project Description and Related Impact Shortcoming

COMMENT 1: Program Environmental Impact Report Subsequent Project Review

The EIR is a Program EIR but does not include a checklist for subsequent Project review. As described in CDFW's letter response to the NOP, while Program EIRs have a necessarily broad scope, CDFW recommends providing as much information related to anticipated future activities as possible. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 4

deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a Project of a more limited geographical scale and is appropriate if the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. The CEQA Guidelines section 15168, subdivision (c)(4) states, **“Where the later activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR.”** Based on CEQA Guidelines section 15183.3 and associated Appendix N Checklist, and consistent with other program EIRs (e.g., California Vegetation Treatment Program Environmental Impact Report and associated checklist at <https://bof.fire.ca.gov/projects-and-programs/calvtp-homepage-and-storymap/#:~:text=The%20CalVTP%20Program%20Environmental%20Impact,with%20the%20CalVTP%20Program%20EIR> and <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fbof.fire.ca.gov%2Fmedia%2Fuqbpmcuq%2Ftemplate-psa-checklist-508-compliant.dotx>), **CDFW recommends creating a procedure or checklist for evaluating subsequent Project impacts on biological resources to determine if they are within the scope of the Program EIR or if an additional environmental document is warranted.** This checklist should be included as an attachment to the EIR. Future analysis should include all special-status species and sensitive habitat including, but not limited to, species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380.

When used appropriately, the checklist should be accompanied by enough relevant information and reasonable inferences to support a “within the scope” of the EIR conclusion. For subsequent Project activities that may affect sensitive biological resources, a site-specific analysis should be prepared by a Qualified Biologist to provide the necessary supporting information. In addition, the checklist should cite the specific portions of the EIR, including page and section references, containing the analysis of the subsequent Project activities’ significant effects and indicate whether it incorporates all applicable mitigation measures from the EIR.

II. Environmental Setting and Related Impacts Shortcomings

Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 5

Would the Project 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 CDFW or United States Fish and Wildlife Service (USFWS)?

COMMENT 2: Deferred Mitigation

Issue, specific impacts, why they may occur and be potentially significant: If the Project may result in physical changes in the environment, such as facilitating development, then the Project could: 1) reduce the number or restrict the range of an endangered, rare, or threatened species, or 2) have a substantial adverse effect, either directly or through habitat modifications, on candidate, sensitive, or special-status species. The EIR documents 69 special-status plant species and 55 special-status animal species either within or in the vicinity of the City (4.4-19 through 4.4-27). The Project area has potential to support special-status species including, but not limited to Sonoma sunshine, Sebastopol meadowfoam, and Burke's goldfields, CESA listed as endangered, California tiger salamander, a CESA listed as threatened species, and burrowing owl, a CESA candidate species and California Species of Special Concern, in addition to the other species mentioned above and in CDFW's NOP response letter, however, the EIR does not include any mitigation measures for impacts to biological resources.

As described in CDFW's letter response to the NOP, California tiger salamander may be directly or indirectly impacted by the Project resulting in mortality of individuals from direct impacts or indirect impacts from degradation of habitat adjacent to ground disturbance and other factors. Additionally, the Project may result in the permanent and temporary loss of California tiger salamander habitat.

The EIR indicates that wetlands may be present within Project sites. As described in CDFW's letter response to the NOP, wetlands in the Santa Rosa Plain may support Sonoma sunshine, Sebastopol meadowfoam, and Burke's goldfields, and loss of wetland habitat may result in mortality of individuals and/or indirect impacts from degradation of habitat adjacent to ground disturbance due to altering hydrological conditions or other factors may occur.

The Project could result in burrowing owl injury or mortality of adults, and permanent wintering (i.e., non-nesting) habitat loss. Additionally, the Project may result in a permanent reduction of burrowing owl foraging habitat in Sonoma County. Burrowing owl is a special-status species and was recently approved as a candidate species under CESA because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from wintering sites without habitat mitigation; and human disturbance (Shuford and Gardali 2008; Department of Fish and Game Staff Report

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 6

on Burrowing Owl Mitigation (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022, CDFW Petition for western burrowing owl (*Athene cunicularia hypugaea*), 2024). Based on the foregoing, if burrowing owl are wintering on or within 500 meters (1,640 feet) of the Project site, or if burrowing owl foraging habitat is removed, Project impacts to burrowing owl would be potentially significant.

The EIR states that projects facilitated by the EIR will follow existing local government policies and applicable protective measures in the *Santa Rosa Plain Conservation Strategy* (SRP CS) (EIR pages 4.4-43 to 4.4-44). However, the SRP CS is a guidance document that was developed several years ago and conditions for some species have deteriorated since it was developed, therefore the SRP CS conservation measures may not adequately mitigate impacts to special-status species to less-than-significant. Additionally, the SRP CS does not cover all special-status species in the Project area. Therefore, while the SRP CS is a useful reference, the EIR should not rely on the SRP CS's measures to mitigate impacts to less-than-significant and should instead conduct a current evaluation of impacts and appropriate mitigation measures. The EIR also states that projects facilitated by the EIR "As part of the permitting project with the [US Army Corps of Engineers, Corps], projects affecting federally regulated waters must demonstrate that they would not have an adverse effect on federally listed species or would be required to provide adequate compensatory mitigation where avoidance is infeasible. For those projects within the boundaries of the SRP CS, including western and southern Santa Rosa, they must comply with the rigorous conditions of the Biological Opinion issued by the [US Fish and Wildlife Service, USFWS] in addressing potential effects on California tiger salamander, Burke's goldfields, Sebastopol meadowfoam, and Sonoma sunshine." (EIR pages 4.4-42). This does not address Projects that may not be subject to Corps and USFWS jurisdiction, where "take" as defined under CESA may occur.

The EIR states that impacts to biological resources would be less-than-significant in part because of a requirement for "the City to have biological resource assessments prepared that identify potential impacts and mitigation measures for protecting the resources for proposed development on sites that may support special-status species." (See EIR page 4.4-43). **However, the proposed biological resource assessments inappropriately defer formulating mitigation measures and may not appropriately identify special-status species that may be impacted and measures reducing such impacts to less-than-significant.** Further, the proposed biological resource assessments would not be subject to public review under CEQA, thereby circumventing key purposes of CEQA including informing the public and governmental decision makers about the potential, significant environmental effects of a proposed project and identifying ways that environmental damage can be avoided or significantly reduced (CEQA Guidelines, § 15002). CEQA Guidelines

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 7

section 15126.4, subdivision (b) states: “Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after Project approval when it is impractical or infeasible to include those details during the Project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.”

No specific mitigation measures are included in the biological resources section of the EIR, especially relating to take of CESA-listed species. The Lead Agency (the City) has therefore not committed itself to mitigation, nor does the EIR adopt specific performance standards for mitigation goals, nor does it identify types of actions that could meet these standards. In addition, the City of Santa Rosa General Plan 2035 EIR includes Mitigation Measure 4.F-5, which specifically requires that the City “...shall incorporate the avoidance and mitigation measures described in the SRP CS and the USFWS Programmatic Biological Opinion, as conditions of approval for development in or near areas with suitable habitat for California tiger salamander, Burke’s goldfields, Sonoma sunshine, Sebastopol meadowfoam, and many-flowered navarretia.” This mitigation measure should be included in the EIR and recognize the updated 2020 USFWS Programmatic Biological Opinion (2020 PBO).

It is conceivable based on the lack of mitigation measures that California tiger salamander, Coho salmon, California freshwater shrimp, Northern Spotted Owl, Sonoma sunshine, Sebastopol meadowfoam, Burke’s goldfields, burrowing owl, and other special-status species would: 1) not be appropriately evaluated in subsequent biological surveys, or 2) that future environmental review pursuant to CEQA would not require appropriate mitigation measures to reduce impacts to less-than-significant.

Therefore, if special-status species occur on or adjacent to Project sites, impacts to special-status species would be potentially significant, and impacts to species considered threatened, endangered, or rare may be considered a mandatory finding of significance (CEQA Guidelines, §§ 15065 & 15380).

Recommended Mitigation Measures: To reduce potential impacts to less-than-significant and comply with CESA, CDFW recommends including mitigation measures in the EIR which evaluate such foreseeable potentially significant impacts. Where future site-specific impacts may not be presently foreseeable based on the

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 8

Project's broad scope, the checklist discussed in Comment 1 above should be used to determine if a future CEQA environmental document is required. CDFW would appreciate the opportunity to review a revised EIR and may have further comments once more specific-species information is provided.

For example, CDFW recommends including the mitigation measures below in this EIR:

MM-BIO-1. Prior to commencing construction-related activities on grassland or wetland habitat suitable to support California tiger salamander, the Project shall obtain a CESA ITP from CDFW for impacts to California tiger salamander and comply with the ITP. Copies of the ITP shall be provided to the City prior to the commencement of construction-related activities. The Project shall obtain authorization from the USFWS for impacts to California tiger salamander and comply with the authorization. The Project shall also provide habitat compensation for California tiger salamander in accordance with the ITP, SRP CS, and 2020 PBO. Please note that the CESA ITP habitat compensation requirements are often consistent with the SRP CS and 2020 PBO but may differ based on site-specific conditions.

MM-BIO-2: Prior to ground disturbance, the Project shall submit a special-status plant habitat assessment and an evaluation of potential direct and indirect impacts to any special-status plant habitat, such as modification of hydrological conditions, to CDFW for review and obtain CDFW's written acceptance of the assessment and evaluation, unless otherwise approved in writing by CDFW.

If direct or indirect impacts to wetlands, which are generally suitable habitat for Sonoma sunshine, Sebastopol meadowfoam, and Burke's goldfields may occur, the Project shall submit to CDFW two years of completed botanical survey results and obtain CDFW's written approval of the results prior to Project construction. The botanical survey results should follow CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (available here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>) and the SRP CS, Appendix D: *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain* (available here: <https://www.fws.gov/media/santa-rosa-plain-conservation-strategy-appendix-c-through-e>). If suitable habitat for other special-status plants may be impacted, the above 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* shall be conducted and the Project shall obtain CDFW's written approval of the results prior to Project construction. If CDFW is unable to accept the survey results, the Project shall conduct additional surveys prior to initiation of Project activities or may assume

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 9

presence of special-status plants, such as Sonoma sunshine, Burke's goldfields, and Sebastopol meadowfoam. Please be advised that for CDFW to accept the results, they should be completed in conformance with the above survey protocols and guidelines, including, but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering off-site hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of CESA listed plants that may be impacted by the Project, or the presence of these species is assumed, the Project shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP including, but not limited to providing habitat compensation. In addition, the Project shall consult with the USFWS for any impacts to suitable habitat for plants listed under the federal Endangered Species Act (e.g., wetlands, ESA) and provide compensatory habitat mitigation as required. Impacts to non-CESA listed special-status plants shall be mitigated through compensatory habitat mitigation at a minimum 3:1 mitigation to impact ratio, including a conservation easement and funding and implementing a long-term management plan, unless otherwise approved in writing by CDFW.

MM-BIO-3: If the Project occurs during the burrowing owl wintering season from September 1 to through January 31, prior to Project activities a Qualified Biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>), unless otherwise approved in writing by CDFW. The Qualified Biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. The habitat assessment shall focus on searching the California Natural Diversity Database (CNDDDB) and potentially other sources for any burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening of greater than 11 centimeters [cm] in diameter and a depth of greater than 150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below (see Contact Information section), and the Project shall

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 10

obtain CDFW's written approval of the habitat assessment prior to starting Project activities.

If a suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the non-breeding season. The survey results shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a take avoidance survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report.

If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A Qualified Biologist shall monitor any detected owl to ensure it is not disturbed.

If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change that would make it no longer suitable within the past three years. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted and shall obtain an ITP if deemed necessary by CDFW.

MM-BIO-4: Project activities shall not occur within 0.25 miles of Northern Spotted Owl nesting habitat from March 15 to July 31, unless Northern Spotted Owl surveys have been completed by a Qualified Biologist following the U.S. Fish and Wildlife Service's (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, and the survey report is accepted in writing by CDFW. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for*

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 11

Disturbance-Only Projects. If breeding Northern Spotted Owl are detected during surveys, the CDFW Bay Delta Region office shall be immediately notified, and a 0.25-mile construction avoidance buffer zone shall be implemented around the nest. Survey results shall be provided to CDFW and to the Spotted Owl Observations Database (<https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info>). No project activities shall occur within the buffer zone until the end of breeding season, or a Qualified Biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. If take of Northern spotted owl cannot be avoided by project activities, The Project shall obtain a CESA incidental take permit from CDFW prior to starting project activities, and authorization from USFWS may be required.

Alternate buffer zones may be proposed by a Qualified Biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW.

MM-BIO-5: In water work shall be avoided where Coho salmon or California freshwater shrimp may occur, as determined by a Qualified Biologist based on a review of CNDDDB and consultation with CDFW. If take of Coho salmon cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to commencing project activities and shall comply with the ITP.

III. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?

COMMENT 3: Riparian Habitat, Wetlands, and Lake and Streambed Alteration Notification

Issue, specific impacts, why they may occur and be potentially significant: If the Project may result in physical changes in the environment, then the Project could result in potentially significant impacts to riparian habitat, wetlands, or other sensitive natural communities.

Recommended Mitigation Measure: If impacts to riparian habitat, wetlands, or other sensitive natural communities may occur, to reduce potential impacts to less-than-significant and comply with Fish and Game Code section 1600 et seq., CDFW recommends including the mitigation measure below.

MM-BIO-6: The Project shall submit an LSA notification for any direct on-site or indirect off-site impacts to streams or lakes. For Project activities that may substantially alter the bed, bank, or channel of any streams (including ephemeral

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 12

or intermittent streams), an LSA Notification shall be submitted to CDFW pursuant to Fish and Game Code section 1602 prior to Project construction. If CDFW determines that an LSA Agreement is warranted, the Project shall comply with all required measures in the LSA Agreement, including, but not limited to requirements to mitigate impacts to the streams and riparian habitat. Permanent impacts to the stream and associated riparian habitat shall be mitigated by restoration of riparian habitat at a 3:1 mitigation to impact ratio based on acreage and linear distance as close to the Project area as possible and within the same watershed and year as the impact, unless otherwise approved in writing by CDFW. Temporary impacts shall be restored on-site in the same year as the impact. The Project shall also consult with the Regional Water Quality Control Board (RWQCB) and Corps to impacts to waters such as streams, lakes, and wetlands, and obtain permits if necessary pursuant to the Clean Water Act and Porter Cologne Water Quality Control Act.

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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT 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. (See 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 EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nick Wagner, Senior Environmental Scientist (Specialist), at (707) 428-2075 or

Amy Nicholson
City of Santa Rosa
November 19, 2024
Page 13

Nicholas.Wagner@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

B77E9A6211EF486.

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023020166)
Vincent Griego, U.S. Fish and Wildlife Service, Vincent.Griego@fws.gov

REFERENCES

California Department of Fish and Wildlife (formerly California Department of Fish and Game). 2012. Staff Report on Burrowing Owl Mitigation. Available online at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

California Department of Fish and Wildlife. 2024. Petition Evaluation for Western Burrowing Owl (*Athene cunicularia hypugaea*). Available online at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=225154&inline>

Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Amy Nicholson
 City of Santa Rosa
 November 19, 2024
 Page 14

ATTACHMENT 1

Draft Mitigation Monitoring and Reporting Program

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM-BIO-1. Prior to commencing construction-related activities on grassland or wetland habitat suitable to support California tiger salamander, the Project shall obtain a CESA ITP from CDFW for impacts to California tiger salamander and comply with the ITP. Copies of the ITP shall be provided to the City prior to the commencement of construction-related activities. The Project shall obtain authorization from the USFWS for impacts to California tiger salamander and comply with the authorization. The Project shall also provide habitat compensation for California tiger salamander in accordance with the ITP, SRP CS, and 2020 PBO. Please note that the CESA ITP habitat compensation requirements are often consistent with the SRP CS and 2020 PBO but may differ based on site-specific conditions.</p>	<p>Prior to and during ground disturbance</p>	<p>Project Applicant</p>
<p>MM-BIO-2. Prior to ground disturbance, the Project shall submit a special-status plant habitat assessment and an evaluation of potential direct and indirect impacts to any special-status plant habitat, such as modification of hydrological conditions, to CDFW for review and obtain CDFW's written acceptance of the assessment and evaluation, unless otherwise approved in writing by CDFW.</p> <p>If direct or indirect impacts to wetlands, which are generally suitable habitat for Sonoma sunshine, Sebastopol meadowfoam, and Burke's goldfields may occur, the Project shall submit to CDFW two years of completed botanical survey results and obtain CDFW's written approval of the results prior to Project construction. The botanical survey results should follow CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (available here: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline) and the SRP CS, Appendix D: Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain (available here: https://www.fws.gov/media/santa-rosa-plain-conservation-strategy-appendix-c-through-e). If suitable habitat for other special-status plants may be impacted, the above 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities shall be conducted and the Project shall obtain CDFW's written approval of the results prior to Project construction. If CDFW is unable to accept the survey results, the Project shall conduct additional surveys prior to initiation of Project activities or may</p>	<p>Prior to and during ground disturbance</p>	<p>Project Applicant</p>

Amy Nicholson
 City of Santa Rosa
 November 19, 2024
 Page 15

<p>assume presence of special-status plants, such as Sonoma sunshine, Burke’s goldfields, and Sebastopol meadowfoam. Please be advised that for CDFW to accept the results, they should be completed in conformance with the above survey protocols and guidelines, including, but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts such as altering off-site hydrological conditions where the above species may be present. Surveys conducted during drought conditions may not be acceptable. If the botanical surveys result in the detection of CESA listed plants that may be impacted by the Project, or the presence of these species is assumed, the Project shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP including, but not limited to providing habitat compensation. In addition, the Project shall consult with the USFWS for any impacts to suitable habitat for plants listed under the federal ESA (e.g., wetlands) and provide compensatory habitat mitigation as required. Impacts to non-CESA listed special-status plants shall be mitigated through compensatory habitat mitigation at a minimum 3:1 mitigation to impact ratio, including a conservation easement and funding and implementing a long-term management plan, unless otherwise approved in writing by CDFW.</p>		
<p>MM-BIO-3. If the Project occurs during the burrowing owl wintering season from September 1 to through January 31, prior to Project activities a Qualified Biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds), unless otherwise approved in writing by CDFW. The Qualified Biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. The habitat assessment shall focus on searching the CNDDDB and potentially other sources for any burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening of greater than 11 cm in diameter and a depth of greater than 150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below (see Contact Information section), and the</p>	<p>Prior to and during ground disturbance</p>	<p>Project Applicant</p>

Amy Nicholson
 City of Santa Rosa
 November 19, 2024
 Page 16

<p>Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.</p> <p>If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the non-breeding season. The survey results shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a take avoidance survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report.</p> <p>If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A Qualified Biologist shall monitor any detected owl to ensure it is not disturbed.</p> <p>If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change that would make it no longer suitable within the past three years. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted and shall obtain an ITP if deemed necessary by CDFW.</p>		
<p>MM-BIO-4. Northern Spotted Owl Surveys. Project activities shall not occur within 0.25 miles of Northern Spotted Owl nesting habitat from March 15 to July 31, unless Northern Spotted Owl surveys have been completed by a Qualified Biologist following the U.S. Fish and Wildlife Service's (USFWS) <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i>, dated (revised) January 9, 2012, and the survey report is accepted in writing by CDFW. Surveys shall be conducted in accordance with Section 9 of the survey protocol, Surveys for Disturbance-Only Projects. If breeding Northern Spotted Owl are detected during</p>	<p>Prior to and during ground disturbance</p>	<p>Project Applicant</p>

Amy Nicholson
 City of Santa Rosa
 November 19, 2024
 Page 17

<p>surveys, the CDFW Bay Delta Region office shall be immediately notified and a 0.25-mile construction avoidance buffer zone shall be implemented around the nest. Survey results shall be provided to CDFW and to the Spotted Owl Observations Database (https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info). No project activities shall occur within the buffer zone until the end of breeding season, or a Qualified Biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. If take of Northern Spotted Owl cannot be avoided by project activities, Permittee shall obtain a CESA incidental take permit from CDFW prior to starting project activities, and authorization from USFWS may be required.</p> <p>Alternate buffer zones may be proposed by a Qualified Biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, <i>Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California</i>, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW.</p>		
<p>MM-BIO-5. In water work shall be avoided where Coho salmon or California freshwater shrimp may occur, as determined by a Qualified Biologist based on a review of CNDDDB and consultation with CDFW. If take of Coho salmon cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to commencing project activities and shall comply with the ITP.</p>	<p>Prior to and during ground disturbance</p>	<p>Project Applicant</p>
<p>MM-BIO-6. The Project shall submit an LSA notification for any direct on-site or indirect off-site impacts to streams or lakes. For Project activities that may substantially alter the bed, bank, or channel of any streams (including ephemeral or intermittent streams), an LSA Notification shall be submitted to CDFW pursuant to Fish and Game Code section 1602 prior to Project construction. If CDFW determines that an LSA Agreement is warranted, the Project shall comply with all required measures in the LSA Agreement, including, but not limited to requirements to mitigate impacts to the streams and riparian habitat. Permanent impacts to the stream and associated riparian habitat shall be mitigated by restoration of riparian habitat at a 3:1 mitigation to impact ratio based on acreage and linear distance as close to the Project area as possible and within the same watershed and year as the impact, unless otherwise approved in writing by CDFW. Temporary impacts shall be restored on-site in the same year as the impact. The Project shall also consult with the RWQCB and Corps to impacts to waters such as streams, lakes, and wetlands, and obtain permits if necessary pursuant to the Clean Water Act and Porter Cologne Water Quality Control Act.</p>	<p>Prior to and during ground disturbance</p>	<p>Project Applicant</p>