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June 2, 2023

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Subject: Coastal Resilience Master Plan

Dear Jordan Moore:

COASTAL RESILIENCE MASTER PLAN (PROJECT)
NOTICE OF PREPARATION (NOP)
SCH# 2023050148

The California Department of Fish and Wildlife (CDFW) received a notice of preparation (NOP) of a draft program environmental impact report (PEIR) from the City of San Diego for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, we appreciate 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

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.

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habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. To the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), the Project proponent may seek related take authorization as provided by the Fish and Game Code. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego (City)

Objective: The Coastal Resilience Master Plan (Plan) is being developed in response to projections of coastal flooding and erosion of City resources, due to sea level rise driven by climate change. The 2020 Climate Change Hazard Vulnerability Assessment (City 2020) assessed climate change risks and potential impacts to City assets, which informed the development of the City's Climate Resilient SD Plan (City 2022). The City was awarded funding through a 2021 National Fish and Wildlife Foundation National Coastal Resilience Fund grant, to prepare the Coastal Resilience Master Plan and PEIR.

The Plan will identify 10 locations for potential nature-based solutions to adapt to climate change; six locations will then be selected for further analysis in the Plan and PEIR. A single location will be analyzed at a 15 percent design level. Design elements will incorporate engineered solutions modeled after nature, as well as restoration activities. Several elements identified for consideration include wetland creation/restoration, living shorelines, oyster reefs, waterfront parks, engineered dunes, landward realignment, and living levees/ecotone slopes.

Location: The Plan will include coastal areas within the City of San Diego's jurisdiction. The following locations will be considered: Los Peñasquitos Lagoon, Blacks Beach, La Jolla Shores, Marine Street Beach, Windansea Beach, Pacific

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Beach, Ocean Beach Dog Beach, Ocean Beach, Sunset Cliffs, and the Naval Training Center.

Biological Setting: The diverse habitats of San Diego's coast support a wide variety of biological resources, including many species listed under the California Endangered Species Act, the federal Endangered Species Act, as well as several California Fully Protected species. Marine habitats such as lagoon, eelgrass, intertidal, and subtidal habitats provide vital resources for fish and wildlife. Some locations include areas (i.e., 'beds') of eelgrass (*Zostera marina*, *Z. pacifica*), which is a sensitive marine habitat type and is important to many aquatic and nearshore species. These locations are also important fish nursery habitat for fish spawning, shelter, and foraging.

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.

To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and natural habitats, we recommend the following information be included in the PEIR:

Comments

- 1) **Biological Resource Inventory:** The document should contain a complete description of the Project, including purpose and need, that describes all terrestrial and marine habitats within or adjacent to the Project area, all staging areas and access routes to the construction and staging areas. The Project area is described as the area in which potential effects may occur.

The document should also provide a complete assessment of the flora and fauna within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, locally unique species, and sensitive habitats. This should include a complete floral and faunal species compendium of the entire Project site, undertaken at the appropriate time of year. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, Section 15380). This should include sensitive fish and wildlife species. Seasonal variations in use of the Project area by wildlife should also be addressed. Focused species-

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specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service.

2) **Biological Impacts:** To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the PEIR:

a) a discussion of potential adverse impacts from lighting, noise, human activity, exotic species, recreational uses, and drainage. Mitigation measures proposed to alleviate such impacts should be included.

b) discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., existing preserve lands or lands designated as Multi-Habitat Planning Area (MHPA) associated with the City's SAP).

c) CDFW also recommends that a habitat gain/loss table be included, which calculates the expected net habitat losses and gains of each type of habitat area lost, restored, enhanced, and created.

3) **Marine Species and Habitats:** To better understand potential effects and impacts from the proposed Project, baseline surveys should be conducted, and the results included in the Draft PEIR. Baseline surveys of marine habitats should include native and artificial habitats, and native and non-native species. The surveys should include all marine areas within the Project's footprint. Invasive marine *Caulerpa* spp. should also be included in marine baseline surveys. All excavations and placement of sediment in Project areas within, and adjacent to, all existing natural wetland or eelgrass habitat should be included in a site-specific baseline marine resources survey and Project impacts/benefits assessment. This should be performed to accurately assess wetland restoration benefits and impacts to marine species and habitats. Historical marine biological species and habitats for the Project area may also be found in the Marine BIOS database on the CDFW's website (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>).

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CDFW recommends the marine biological survey and impact assessment reports include a listing of each Project component and the habitat that will be impacted, the total area of habitat impacted, and proposed mitigation measures for avoiding, and minimizing impacts. Additionally, the baseline assessment should include a habitat loss/gain summary indicating the total net gain or loss of each habitat impacted verses habitat restored. If impacts or net losses to sensitive, native marine habitats are unavoidable, additional mitigation plans should be developed to compensate for lost existing habitats.

- 4) **Special-status Species:** The PEIR should thoroughly analyze direct, indirect, and cumulative impacts to any special-status species likely to occur in the Project area. Impacts to species designated as Fully Protected must be completely avoided, as these species may not be taken or possessed at any time per section 3511 of the Fish and Game Code. Avoidance measures for avian species may include phasing construction to occur outside of nesting season, conducting species-specific surveys when construction will occur within 500' of a nesting site, retaining a qualified biological monitor on-site during construction, and implementation of no-activity buffers around active nests.

CDFW also considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species not already covered by the City's SAP that results from the Project is prohibited, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, unless covered by the City's SAP permit, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and G. Code §§ 2080.1, 2081, subds. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting

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program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

- 5) **Sensitive Marine Species and Habitats:** Many important commercial and recreational fish species use the Project area for breeding, shelter, spawning, and foraging. Potential impacts to marine fish, including both commercially and recreationally important species, should be identified and any significant impacts should be avoided and minimized to below a level of significance. A list and description of fish and wildlife species and habitat in the Bay may be found on Marine Bios (<https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS>).
- 6) **Mitigation for Project-related Biological Impacts:** The PEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible, or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be discussed.
- 7) **Living Shorelines and Oyster Reefs:** To reduce wave energy, slow erosion, and minimize flooding and storm surge, the NOP proposes to create nature-based solutions such as living shorelines and oyster reefs. With limited details from the NOP, CDFW is identifying the proposed infrastructure as an artificial reef (Fish and Game Code Section 6421). CDFW has authority for artificial reefs under a variety of roles including Statutory/Legislative Authority, Trustee and Responsible Agency Status under CEQA and the Marine Life Management Act, and an advisory role to other agencies. Fish and Game Code Section 6420-6425 established the California Artificial Reef Program (CARP) through legislation in 1985. The program was created to investigate the potential to enhance declining species through the placement of artificial reefs and is currently unfunded with no identified source of funding. However, the CARP does not consider reef placement for mitigation, dampening effects of sea level rise, improve diving opportunities, or restoration. In order to provide adequate consultation and advice to the principal permitting agencies on reef design, development, and purpose, CDFW needs a comprehensive statewide scientifically based plan for overseeing the placement of artificial

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reefs in state waters. Without a scientifically based statewide artificial reef plan for California, CDFW does not recommend any new artificial reef or artificial habitat at this time, regardless of intent. CDFW recommends providing additional discussion within the Draft PEIR as to why the treatment would be necessary to achieve improved water quality. In addition, CDFW recommends including alternatives to the living shorelines and oyster reefs that could still achieve similar shoreline protection goals.

CDFW is concerned artificial reefs and habitat creation could attract invasive species. If the living shorelines and oyster reefs are implemented as currently described within the NOP, CDFW recommends that the PEIR include discussion on developing an invasive species monitoring plan that includes monitoring measures, adaptive management measures, and protocols if invasive species are identified.

Additionally, CDFW is concerned that placement of the living shorelines and oyster reefs would potentially decrease the amount of habitat for further eelgrass expansion. CDFW recommends the PEIR include additional discussion on whether the installation of the living shorelines and oyster reefs would be within current eelgrass habitat and whether it could prevent future expansion of eelgrass if it were to be implemented.

- 8) **City of San Diego SAP:** CDFW issued NCCP Approval and Take authorization for the City of San Diego SAP per section 2800, *et seq.*, of the California Fish and Game Code on July 16, 1997. The SAP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the SAP, is discussed in CEQA. Specifically, section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the SAP as a result of this Project is necessary to address CEQA requirements.

The proposed Project occurs within the SAP Plan Area and is subject to its provisions and policies. To be considered a covered activity, the City needs

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to demonstrate that proposed actions are consistent with the SAP and its associated Implementing Agreement.

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 California Natural Diversity Database (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. (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 NOP assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination on terrestrial issues should be directed to Jessie Lane, Environmental Scientist, at Jessie.Lane@wildlife.ca.gov. Questions and further coordination on marine issues should be directed to Leslie Hart, Marine Environmental Scientist, at Leslie.Hart@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

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