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DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

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Via Electronic Mail Only

Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

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Subject: City of Montebello General Plan Update and Downtown Montebello Specific Plan, Notice of Preparation, SCH #2023050665, City of Montebello, Los Angeles County

Dear Mr. Palombi:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) from the City of Montebello (City) for the City of Montebello General Plan Update and Downtown Montebello Specific Plan (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

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

Project Description and Summary

Objective: The Project would be both a comprehensive update of the City's General Plan and preparation of the Downtown Montebello Specific Plan, which is a component of the City's General Plan.

General Plan Update

The City's General Plan consists of twelve elements. Below is a list of elements and the year in which that element was adopted.

- Circulation Element (1973)
- Conservation Element (1975)
- Land Use Element (1973)
- Noise Element (1975)
- Open Space Element (1973)
- Parks & Recreation (1974, amended 1993)
- Population Element (1973)
- Redevelopment Element (1973)
- Safety Element (2017)
- Scenic Highways Element (1975)
- Seismic Safety Element (1975)
- Housing Element (2022)

The Project would include the following: reorganize and reformat the General Plan and update goals and policies that reflect the community's vision of Montebello that the General Plan seeks to achieve; update the General Plan Land Use Map; and update the 6th Cycle Housing Element (2021-2029) in compliance with the requirements of State Housing Element law.

Downtown Montebello Specific Plan

The Downtown Montebello Specific Plan would establish a vision that is intended to restore and leverage downtown Montebello's natural, built, and social assets to build resilient prosperity with a focus on quality of place as a key competitive

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advantage. The Downtown Montebello Specific Plan would include a focus on walkable and mixed-use development in the downtown area; preserving and adding to the supply of affordable and supportive housing; providing proximity to daily necessities within a reasonable pedestrian journey; introducing more organic and less ordered spaces along the Rio Hondo Channel; creating a distinct and equitable downtown within a landscape that takes advantage of Montebello's mild climate with parklets, bicycle lanes, and passive and active outdoor recreation; and creating strategic mobility hubs throughout downtown to offer more mobility options and help reduce automobile dependence.

Location: The Project's General Plan Update is for the entire City of Montebello while the Downtown Montebello Specific Plan focuses on downtown Montebello, which is bounded by Greenwood Avenue on the west, Los Angeles Avenue on the south, the Rio Hondo Channel on the east, and Cleveland Avenue on the north (collectively, Project Area).

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. The DEIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

Specific Comments

- 1) Natural Areas and Open Space. The Project Area contains and is adjacent to natural areas and open space. One of these natural areas is the Whittier Narrows Recreation Area. The Project, specifically the Land Use, Redevelopment, and Housing Elements, could result in future development within the Project Area. Depending on location, future development could impact natural areas and open space.
 - a) Analysis and Disclosure. CDFW recommends the DEIR discuss the Project's potential direct and indirect impacts on natural areas and open space, in particular, impacts that may occur as a result of updates to elements including, but not limited to, Land Use, Redevelopment, and Housing Elements. The DEIR should discuss whether and to what extent the Project would facilitate future development and encroachment into natural

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areas and open space, including impacts from fuel modification.

- b) Avoidance and Setback. Where future development facilitated by the Project may occur near natural areas and open space, CDFW recommends the DEIR provide minimum standards for effective unobstructed vegetated setbacks adjoining natural areas and open space. The DEIR should provide justifications for the effectiveness of chosen setback distances. The Project should require future development facilitated by the Project to implement setbacks and increase setbacks as needed.
 - c) Alternatives. CDFW recommends the City maximize development where it already exists in order to protect natural lands and open space from further development and encroachment. CDFW recommends the DEIR provide Project alternatives that would avoid converting natural areas and open space into developed areas even if such an alternative would impede to some degree the attainment of the Project's objectives (CEQA Guidelines, § 15126.6).
 - d) Mitigation. If avoidance is not feasible, CDFW recommends the DEIR provide measures where future development facilitated by the Project would mitigate impacts on natural areas and open space not previously identified in the DEIR. The DEIR should provide justifications for the effectiveness of proposed mitigation measures and sufficient information to facilitate meaningful public review and comment on the adequacy of mitigation measures to offset Project-related impacts on natural areas and open space.
- 2) Coastal California Gnatcatcher. According to the California Natural Diversity Database (CNDDDB), there is a coastal California gnatcatcher (gnatcatcher) occurrence in the northwest corner of the Project Area (CDFW 2023a). The Project, specifically the Land Use, Redevelopment, and Housing Elements, could result in future development within or adjacent to gnatcatcher habitat.
- a) Protection Status. Gnatcatcher is a California Species of Special Concern (SSC) and a species listed as threatened under the ESA. CEQA provides protection not only for CESA-listed species, but for any species including, but not limited, to SSC which can be shown to meet the criteria for State listing (CEQA Guidelines, § 15380). As an ESA-listed species, gnatcatcher is considered an endangered, rare, or threatened species under CEQA

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(CEQA Guidelines, § 15380). Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

Project-related impacts on gnatcatcher could potentially be significant because the Project could impact one remaining local population of gnatcatcher. Impacts could occur from development facilitated by the Project that would result in permanent loss of coastal scrub habitat supporting gnatcatcher. Impacts on gnatcatcher could potentially substantially reduce the habitat of a fish or wildlife species, threaten to eliminate a plant or animal community, or substantially reduce the number or restrict the range of an endangered, rare, or threatened species, therefore resulting in the Project potentially having significant impact on gnatcatcher (CEQA Guidelines, § 15065).

- b) Disclosure and Mitigation. The DEIR should discuss the Project's potential impact on gnatcatcher and habitat. CDFW recommends the DEIR provide Project alternatives that would avoid impacting gnatcatcher. The DEIR should provide mitigation measures that would require future development facilitated by the Project to avoid impacts on gnatcatcher. If avoidance is not feasible, an individual project may need to obtain take authorization from the U.S. Fish and Wildlife Service (USFWS). In addition, an individual project should provide replacement habitat to ensure no net loss of gnatcatcher habitat in the Project Area. The DEIR should discuss why mitigation measures proposed would be adequate to avoid or offset impacts to gnatcatcher and habitat.
- 3) Rio Hondo. The Rio Hondo flows through the western extent of the Project Area. Future development facilitated by the Project's Land Use, Redevelopment, and Housing Elements at sites adjacent to Rio Hondo could impact the water course.
- a) Stream Delineation and Impact Assessment. CDFW recommends the DEIR provide a stream delineation and analysis of impacts on any river, stream, or lake¹. The delineation should be conducted pursuant to the USFWS

¹ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

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wetland definition adopted by CDFW (Cowardin et al. 1979). Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

- b) Avoidance and Setbacks. Where future development may occur near a stream, CDFW recommends the DEIR provide minimum standards for effective unobstructed vegetated setbacks adjoining streams and associated vegetation. The DEIR should provide justifications for the effectiveness of chosen setback distances. The Project should require future development facilitated by the Project to implement setbacks and increase setbacks as needed.
- c) Mitigation. If avoidance is not feasible, the DEIR should provide a measure where future development facilitated by the Project would provide the following:
 - 1) A stream delineation and analysis of impacts, and
 - 2) A Lake and Streambed Alteration (LSA) Notification to CDFW pursuant to Fish and Game Code Section 1600 et seq. (CDFW 2023b). As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the project applicant (or "entity") must notify CDFW².
- 4) Biological Resources Assessment for Development Facilitated by the Project. Future development facilitated by the Project's Land Use, Redevelopment, and Housing Elements could impact biological resources including, but not limited to biological resources discussed in this letter. Therefore, CDFW recommends the DEIR include a mitigation measure that would require future development facilitated by the Project to prepare a biological resources

² CDFW's issuance of a LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the environmental document of the local jurisdiction (lead agency) for the project. To minimize additional requirements by CDFW pursuant to section 1600 et seq. and/or under CEQA, the environmental document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

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assessment in order to identify and mitigate impacts on biological resources. A biological resources assessment should follow the guidance provided under General Comment #4.

- 5) California 30×30. In October 2020, Governor Newsom signed the Nature Based Solutions [Executive Order N-82-20](#), elevating the role of natural and working lands in the fight against climate change and advancing biodiversity conservation as an administration priority. As part of this Executive Order, California committed to the goal of conserving 30 percent of our lands and coastal waters by 2030 (30×30). For the Los Angeles Region, a pathway to support 30×30 is to conserve coastal sage scrub, shrublands and chapparal, oak woodlands, and grasslands (CNRA 2021). Natural lands provide habitat for plants and wildlife, connect large landscape blocks, and enable wildlife movement across the landscape.

The City has very few natural lands remaining, which are limited to the northwest corner of the City. CDFW recommends the City design the Project to conserve remaining natural lands and create/restore natural lands and open space to the maximum extent feasible. This may help to achieve the Project's goal to promote clean air and clean water, prevent urban heat islands, reduce stormwater runoff, promote greener neighborhoods, and nature-based recreation.

General Comments

- 1) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the impact and significance of the specific impact relative to plant and wildlife species (e.g., current range, distribution, population trends, and connectivity).
- 2) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document "shall describe feasible measures which could mitigate for impacts below a significant level under CEQA."

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- a) Level of Detail. Mitigation measures must be feasible, effective, and fully enforceable by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). The DEIR should provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).
 - b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of a proposed mitigation measure [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures on biological resources.
- 3) Biological Baseline Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project Area and where the Project may facilitate ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. A biological resources assessment will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DEIR should include the following information:
- a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation](#)

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[Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2023c);

- b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Botanical field surveys should be comprehensive over the entire Project Area, including areas that will be directly or indirectly impacted by the Project. Adjoining areas (where accessible) should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project Area. This usually involves multiple visits to the Project Area (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present;
- c) Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project Area and within adjacent areas. The [Manual of California Vegetation](#) (MCV), second edition, should also be used to inform this mapping and assessment (CNPS 2023). Adjoining areas should be included in this assessment where the Project-related construction and activities could lead to direct or indirect impacts off site;
- d) A complete and recent assessment of the biological resources associated with each habitat type in the Project Area and adjacent areas. CDFW's [California Natural Diversity Database](#) should be accessed to obtain current information on any previously reported sensitive species and habitat³ (CDFW 2023d). An assessment should include a minimum nine-quadrangle search of the CNDDDB to determine a list of species potentially present in the Project Area. A nine-quadrangle search should be provided in the Project's CEQA document for adequate disclosure of the Project's potential impact on biological resources. Please see [CNDDDB Data Use](#)

³ A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)].

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[Guidelines – Why do I need to do this?](#) for additional information (CDFW 2011);

- e) A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project Area and adjacent areas, including SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project Area should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol (CDFW 2023e). Acceptable species-specific survey procedures may be developed in consultation with CDFW and USFWS; and
 - f) A recent wildlife and rare plant survey. 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. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.
- 4) Direct and Indirect Impacts on Biological Resources. The DEIR should provide a thorough discussion of direct and indirect impacts expected to adversely affect biological resources with specific measures to offset such impacts. The DEIR should address the following:
- a) A discussion regarding Project-related indirect 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., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DEIR;

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- b) A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted [CEQA Guidelines, § 15126.2(a)];
 - c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;
 - d) A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat (if any) supported by the groundwater. Measures to mitigate such impacts should be included; and
 - e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR.
- 5) Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR:
- a) A complete discussion of the purpose and need for, and description of the proposed Project;
 - b) Pursuant to CEQA Guidelines section 15126.6(a), an environmental document “shall describe a reasonable range of potentially feasible alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project.” CEQA Guidelines section 15126.6(f)(2) states if the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion; and
 - c) A range of feasible alternatives to the Project to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends the City select Project

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designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the City design the Project to have appropriate setbacks from biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR "shall" include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).

- d) Where the Project may impact aquatic and riparian resources, CDFW recommends the City select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level and cause the watercourse to alter its course of flow.
- 6) Cumulative Impact. Cumulative impacts on biological resources can result from collectively significant projects. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. The Project may have the potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Species that may be impacted by the Project include, but are not limited to, the biological resources described in this letter.

Accordingly, CDFW recommends the DEIR evaluate the Project's potential cumulative impacts on biological resources. The Project may have a "significant effect on the environment" if the possible effects of the Project are individually limited but cumulatively considerable. "Cumulatively

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considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects [Pub. Resources Code, § 21083(b)]. The City’s conclusions regarding the significance of the Project’s cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if the City concludes that the Project would not result in cumulative impacts on biological resources, the City “shall identify facts and analysis supporting the City’s conclusion that the cumulative impact is less than significant” [CEQA Guidelines section § 15130(a)(2)].

When using a threshold of significance, the DEIR should briefly explain how compliance with the threshold means that the Project’s impacts are less than significant. A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect [CEQA Guidelines, § 15064.7]. Compliance with the threshold does not relieve the City’s obligation to consider substantial evidence indicating that the Project’s environmental effects may still be significant [CEQA Guidelines, § 15064(b)(2)]. Alternatively, if the City concludes that the Project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through implementation of mitigation measures, the DEIR should briefly explain how the contribution has been rendered by the City to be less than cumulatively considerable. The City “shall identify facts and analysis supporting the City’s conclusion that the contribution will be rendered less than cumulatively considerable” [CEQA Guidelines section, § 15130(a)(3)].

- 7) Data. CEQA requires that information developed in environmental impact reports 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 sensitive natural communities detected by completing and submitting [CNDDB Field Survey Forms](#) (CDFW 2023f). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW’s Vegetation Classification and Mapping Program (CDFW 2023g). The City should ensure data collected for the preparation of the DEIR is properly submitted, with all data fields applicable filled out.
- 8) CESA. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any

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endangered, threatened, candidate species, or CESA-listed plant species that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9).

Consequently, if the Project and any future development facilitated by the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, 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 & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. 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 a project's CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting 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 an ITP.

- 9) Compensatory Mitigation. The DEIR should include compensatory mitigation measures for the Project's significant direct and indirect impacts to sensitive and special status plants, animals, and natural communities. Mitigation measures should emphasize avoidance and minimization of Project-related 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 inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.
- 10) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, the DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset Project-induced qualitative and quantitative

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losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate endowment should be set aside to provide for long-term management of mitigation lands.

- 11) Wildlife Friendly Fencing. Fencing could obstruct wildlife movement and result in wildlife injury or mortality due to impalement and entanglement (e.g., chain link fencing). If the Project includes temporary and/or permanent fencing, the City should incorporate wildlife friendly fencing designs into the Project and implemented at an individual project-level. Fencing designs should be disclosed and evaluated in the DEIR for potential impacts on biological resources and wildlife movement. The DEIR should discuss how fencing proposed for the Project would minimize impacts on biological resources, specifically wildlife movement. CDFW supports the use of wildlife-friendly fencing. Wildlife-friendly fencing should be used and strategically placed in areas of high biological resource value in order to protect biological resources, habitat, and wildlife movement. CDFW recommends [A Landowner's Guide to Wildlife Friendly Fences](#) for information wildlife-friendly fences (MFWP 2012).
- 12) Use of Native Plants and Trees. CDFW supports the use of native plants for the Project if the Project would include landscaping or restoration requirements at a project-level. CDFW strongly recommends avoiding non-native, invasive species for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the [California Invasive Plant Council](#) (Cal-IPC 2023). CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project Area. In addition, CDFW supports planting species of trees, such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.
- 13) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or

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threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.

14) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies. The [Wetlands Resources](#) policy the Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California" (CFGC 2020). Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."

a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.

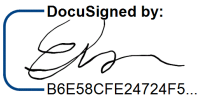
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- b) The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

Conclusion

We appreciate the opportunity to comment on the NOP to assist the City of Montebello in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:

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