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A Commitment to Service

Planning, Building & Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

David Morrison  
Director

## MEMORANDUM

To: Planning Commission

From: Charlene Gallina, Supervising Planner

Date: August 21, 2019

Re: Agenda Item 7A

New Life Community Adventist Church

P16-00210 -UP

Initial Study/Mitigated Negative Declaration

In accordance with Section 15073 of the California Environmental Quality Act (CEQA) Guidelines, Napa County submitted the initial proposed Initial Study/Mitigated Negative Declaration (IS/MND) to the State Clearinghouse for a 30-day review period beginning on July 19, 2019. In addition, Napa County circulated a Notice of Intent to adopt the initial proposed IS/MND to interested agencies and individuals. During the public review period, the County received a comment letter, dated August 19, 2019, from the California Department of Fish and Wildlife (CDFW), attached, recommending revisions to the project's mitigation measures concerning Special –Status Plants and the Western Burrowing Owl.

Pursuant to Section 15073.5 of the CEQA Guidelines recirculation of the MND is not required unless a new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or the lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

Based upon the request by CDFW to incorporate their protocol for required preconstruction surveys associated with the White-Tailed Kite and other Nesting Birds/Raptors, and Special Status Plants, and in consultation with the project's Biologist, staff has revised the Biological Resources mitigation measures to address CDFW's comments. It should be noted that the applicant is in agreement and has authorized such changes through signature of a revised project revision statement to the project's IS/MND (attached). Given these revisions, staff has determined that MND is not required to be recirculated.

Therefore, staff is recommending that following revised mitigation measures be replaced with Conditions of Approval 6.13a and 6.13b (Permit Prerequisite Mitigation Measures) and 7.4a and 7.4b Construction Measures in Attachment B of the Staff Report:

- a. BIO-1: Pre-Construction Rare Plant Survey. Prior to issuing permits for construction activities, the project sponsor shall conduct special-status plant surveys of the Project Area during the identifiable period for the species of concern. A qualified botanist shall conduct special-status plant surveys covering the entire 1.8-acre Project site during the blooming period for all special-

status plants that have the potential to occur in the Project area, using the updated California Department of Fish and Wildlife (CDFW) survey protocol: Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities, dated March 20, 2018. If special status plant populations are identified during surveys, those populations shall be avoided to the greatest extent feasible. If the Project cannot completely avoid impacting special-status plants, a qualified botanist should prepare a mitigation and monitoring plan in consultation with CDFW. If no special-status plants are found within the Project Area during seasonal rare plant surveys, no further measures pertaining to special-status plants are required.

If special-status plant species are found within the Project Area, the following mitigation measure will be implemented to reduce the impact to less than significant:

- Consult with CDFW to determine appropriate buffer between construction activities and rare plant populations identified during protocol-level surveys to ensure impact avoidance.
- If avoidance is not feasible, implement alternative mitigation measures in keeping with CDFW recommendations. These measures may include but not be limited to:
- Seed collection, plant relocation, reserving a portion of the property for suitable habitat relocation, and implementation of best management practices during construction to avoid any potential indirect impacts to rare plant populations

Method of Mitigation Monitoring: If construction activity is to occur during the blooming season from March 15 to August 31, the pre-construction survey prepared by a qualified wildlife biologist shall be submitted to Planning Division and CDFW staff prior to issuance of the grading permit.

Responsible Agency: PBES

- b. BIO-2: Prior to working on the Project, the project sponsor shall hire a qualified biologist to conduct pre-construction surveys for special status bird species, nesting birds, and raptors. The pre-construction surveys shall include the following:
  - a.) Conduct a take avoidance survey for burrowing owl (BUOW) during the BUOW breeding season (February 1 to August 31) in the manner described in the Staff Report on Burrowing Owl Mitigation, prepared by CDFW, dated March 7, 2012.
    - i. If BUOW are discovered during surveys, no construction shall occur until September 1 or until the qualified biologist has determined all BUOW young have fledged, whichever comes first.
    - ii. If the Project cannot completely avoid impacting active burrows (i.e. burrows used by BUOW within the last 3 years), a qualified biologist shall prepare a BUOW mitigation and monitoring plan based on Mitigation Methods outlined in the Staff Report on Burrowing Owl Mitigation for CDFW review and approval prior to the start of construction to mitigate for the loss of breeding and/or foraging habitat.
    - iii. If no BUOW are discovered during breeding season surveys, but suitable BUOW burrows are present on the Project site, then a qualified biologist shall also conduct non-breeding season surveys (September 1 - January 31) to determine if BUOW use the burrows as wintering habitat.

- iv. If BUOW are discovered during non-breeding season surveys and impacts to active burrows cannot be completely avoided by the Project, a qualified biologist shall prepare a mitigation and monitoring plan to mitigate for the loss of wintering habitat.
- b.) Conduct clearing and tree and shrub removal operations between September 1 and February 14 to minimize potential impacts to nesting birds.
- c.) Conduct pre-construction survey for active migratory bird and raptor nests within 14 days to 72 hours prior to commencement of constructions activities or tree removal, if anticipated to commence during the nesting season (February 15 – August 31).
  - i. If an active nest is found, the area around the tree with the active nest will be marked with high visibility fencing or flagging and the qualified biologist shall determine a suitable buffer distance to avoid nest disturbance during Project activities.
  - ii. The qualified biologist should supervise nest activity during the first couple of days of construction to ensure construction activities are not disturbing the nest.
  - iii. Alternatively, construction can wait until September 1 or until the young have fledged, or a qualified biologist has determined the nest is no longer active, whichever comes first.

Method of Monitoring: Results of pre-construction surveys shall be submitted to the Planning Division and CDFW prior to issuance of the grading permit.

Responsible Agency: PBES



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](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



August 19, 2019

Ms. Charlene Gallina  
Napa County  
Department of Planning, Building, and Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559

Subject: New Life Community Adventist Church, Draft Mitigated Negative Declaration,  
SCH #2019079070, Napa County

Dear Ms. Gallina:

The California Department of Fish and Wildlife (CDFW) received a draft Mitigated Negative Declaration (MND) for the New Life Community Adventist Church (Project). CDFW is submitting comments on the draft MND to inform Napa County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Agreement and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

### **Regulatory Requirements**

CESA prohibits unauthorized take of candidate, threatened, and endangered species. Therefore, if "take" or adverse impacts to species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Incidental Take Permit (ITP) must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA ITP is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required to obtain a CESA ITP. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

#### *Lake and Streambed Alteration Agreement*

CDFW requires an entity to notify CDFW before commencing any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river, lake, or stream or use material from a streambed. Ephemeral and/or intermittent streams and drainages (that are dry for periods of time or only flow during



periods of rainfall) are also subject to Fish and Game Code section 1602; and CDFW may require an LSA Agreement with the applicant, pursuant to Section 1600 et seq. of the Fish and Game Code.

Issuance of an LSA Agreement is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. The CEQA document should identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. To obtain information about the LSA notification process, please access our website at <https://www.wildlife.ca.gov/conservation/lsa> or to request a notification package, contact CDFW's Bay Delta Regional Office at (707) 428-2002.

CDFW also 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 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). Fully protected species (e.g. white-tailed kite; *Elanus leucurus*) may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

### **Project Description and Environmental Setting**

The 1.8-acre Project site is located at 1451 American Canyon Road, approximately 1,000 linear feet to the east of the American Canyon Road and Newell Drive intersection, in south Napa County; Latitude 38.163889, Longitude -122.230210; Assessor's Parcel Number: 059-100-002. The Project parcel lies directly south of the Newell Open Space Preserve and is approximately 280 feet north of American Canyon Creek, a tributary to the Napa River. Additionally, a tributary to American Canyon Creek lies approximately 600 feet to the northwest of the Project site. The Project site consists of approximately 1.63 acres of disturbed non-native annual grassland and approximately 0.17 acres of development (i.e. single-family residence and associated agricultural and grazing activities).

The Project is to develop a church and associated support and educational rooms/facilities on the 1.8-acre site; resulting in approximately 11,026 square feet of new development. Additionally, an asphalt parking lot will provide parking for up to 62 vehicles and would be accessed by converting the current gravel driveway into a paved asphalt driveway. Lastly, an approximately 20-foot tall, 35,000-gallon water tank is proposed in the central western-edge of the Project site.

### **Comments and Concerns**

#### *Special-Status Plants*

Section IV of the draft MND discusses the Project's potential impacts to special-status plant species. Page 7 of the draft MND states, "*Eleven special-status plant species were evaluated for their potential to occur and be affected by the Project. Of these, none have the potential to occur within the Project Area based on absence of suitable habitat*". However, the Biological

Resource Assessment (BRA), prepared by Foothill Associates, dated March 22, 2016 states that alkali milk-vetch (*Astragalus tener*), big-scale balsamroot (*Balsamorhiza macrolepis*), saline clover (*Trifolium hydrophilum*), San Joaquin spearscale (*Extriplex joaquinana*), and two-forked clover (*Trifolium amoenum*) have *high* potential to occur within the disturbed non-native annual grassland within the Project site. Additionally, the BRA states that a rare plant survey was conducted on February 25, 2016, which is outside the blooming period for the abovementioned plants.

CDFW recommends that Mitigation Measure BIO-1 be revised to state that a qualified botanist shall conduct special-status plant surveys covering the entire 1.8-acre Project site during the blooming period for all special-status plants that have the potential to occur in the Project area, using the updated CDFW survey protocol: *Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities*, dated March 20, 2018. The survey protocol can be found here:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>. Additionally, if special-status plant populations are identified during surveys, CDFW recommends that those populations be avoided to the greatest extent feasible. If the Project cannot completely avoid impacting special-status plants, a qualified botanist should prepare a mitigation and monitoring plan in consultation with CDFW.

*Western Burrowing Owl (Athene cunicularia)*

The draft MND states the following: the study area has breeding and foraging habitat for western burrowing owl (BUOW); the burrows within the Project site provide marginal wintering and nesting habitat for BUOW; and there are two historical occurrences of BUOW within five miles of the Project site, including one historical occurrence approximately 1 mile from the Project site. Mitigation Measure BIO-2 (MM BIO-2) of the draft MND states that prior to working on the Project, the Project sponsor will conduct a take avoidance survey for BUOW between 14 and 30 days prior to the start of construction. CDFW recommends that MM BIO-2 be revised to state the following:

*A qualified biologist shall conduct pre-construction surveys during the BUOW breeding season (February 1 to August 31) in the manner described in the **Staff Report on Burrowing Owl Mitigation**, prepared by CDFW, dated March 7, 2012. If BUOW are discovered during surveys, no construction shall occur until September 1 or until the qualified biologist has determined all BUOW young have fledged, whichever comes first. If the Project cannot completely avoid impacting active burrows (i.e. burrows used by BUOW within the last 3 years), a qualified biologist shall prepare a BUOW mitigation and monitoring plan based on Mitigation Methods outlined in the Staff Report on Burrowing Owl Mitigation for CDFW review and approval prior to the start of construction to mitigate for the loss of breeding and/or foraging habitat. If no BUOW are discovered during breeding season surveys, but suitable BUOW burrows are present on the Project site, then a qualified biologist shall also conduct non-breeding season surveys (September 1 – January 31) to determine if BUOW use the burrows as wintering habitat. If BUOW are discovered during non-breeding season surveys and impacts to active burrows cannot be completely avoided by the Project, a qualified biologist shall prepare a mitigation and monitoring plan to mitigate for the loss of wintering habitat.*



Ms. Charlene Gallina  
August 19, 2019  
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CDFW recommends being consulted with early in the mitigation planning process if a mitigation and monitoring plan is necessary. Survey reports for BUOW should be submitted to CDFW before the start of construction.

Please be advised that CDFW does not consider exclusion of burrowing owls or "passive relocation" as a "take" avoidance, minimization or mitigation method, and considers exclusion as a significant impact. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of evicted or excluded owls is unknown. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented in order to avoid "take".

*White-Tailed Kite (Elanus leucurus) and other Nesting Birds/Raptors*

White-tailed kite is a fully protected species under Fish and Game Code section 3511 and therefore take of the species cannot be permitted. The BRA states that white-tailed kite has a *high* potential to occur at the Project site and that the Project site contains suitable nesting and foraging habitat. MM BIO-2 of the draft MND states that if construction activities must occur during the breeding season for migratory birds and raptors (February 15 – August 31), then a pre-construction survey will be conducted by the Project sponsor within 14 days to 72 hours prior to the start of construction. Again, CDFW recommends that MM BIO-2 be revised to state that a qualified biologist will conduct pre-construction surveys for nesting birds and/or raptors. Furthermore, MM BIO-2 should include language stating that if an active nest is found, the area around the tree with the active nest will be marked with high visibility fencing or flagging and the qualified biologist shall determine a suitable buffer distance to avoid nest disturbance during Project activities. The qualified biologist should supervise nest activity during the first couple of days of construction to ensure construction activities are not disturbing the nest. Alternatively, construction can wait until September 1 or until the young have fledged, or a qualified biologist has determined the nest is no longer active, whichever comes first.

CDFW appreciates the opportunity to provide comments on the draft MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at (707) 428-2076 or at [garrett.allen@wildlife.ca.gov](mailto:garrett.allen@wildlife.ca.gov); or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at (707) 428-2090 or at [karen.weiss@wildlife.ca.gov](mailto:karen.weiss@wildlife.ca.gov).

Sincerely,



Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse

**From:** [Hultman, Debbie@Wildlife](mailto:Hultman,Debbie@Wildlife)  
**To:** [Gallina, Charlene](mailto:Gallina,Charlene)  
**Cc:** [sean@lakassociates.com](mailto:sean@lakassociates.com); [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov); [Allen, Garrett@Wildlife](mailto:Allen,Garrett@Wildlife); [Weiss, Karen@Wildlife](mailto:Weiss,Karen@Wildlife); [Weightman, Craig@Wildlife](mailto:Weightman,Craig@Wildlife)  
**Subject:** New Life Community Adventist Church-SCH2019079070  
**Date:** Monday, August 19, 2019 4:23:15 PM  
**Attachments:** [New Life Community Adventist Church-SCH2019079070-Gallina-ALLEN081919.pdf](#)

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Ms. Gallina,

Please see the attached letter. Original to follow.

Thank you,

*Debbie Hultman* | Assistant to the Regional Manager  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Ste. 100, Fairfield, CA 94534  
707.428.2037 | [debbie.hultman@wildlife.ca.gov](mailto:debbie.hultman@wildlife.ca.gov)



**PROJECT REVISION STATEMENT**  
**New Life Community Adventist Church Use Permit #P16-00210-UP**

I hereby revise New Life Community Church Use Permit #P16-00210 for a new church development consisting of a main, two-story, approximately 4,000 sq ft sanctuary/chapel structure and a 500 sq ft attached one-story conference room and bathrooms, a 1,700 sq ft fellowship hall, a 2,000 sq ft lobby, and a 3,100 sq ft semi-circular shaped classroom and office structure. All buildings will result in a net of 11,026 square feet of new development on a 1.8-acre site. APN 059-100-002 located at 1451 American Canyon Road, CA 94503 to include the measures specified below:

**MM BIO-1:** Pre-Construction Rare Plant Survey. Prior to issuing permits for construction activities, the project sponsor shall conduct special-status plant surveys of the Project Area during the identifiable period for the species of concern. A qualified botanist shall conduct special-status plant surveys covering the entire 1.8-acre Project site during the blooming period for all special-status plants that have the potential to occur in the Project area, using the updated California Department of Fish and Wildlife (CDFW) survey protocol: Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities, dated March 20, 2018. If special status plant populations are identified during surveys, those populations shall be avoided to the greatest extent feasible. If the Project cannot completely avoid impacting special-status plants, a qualified botanist should prepare a mitigation and monitoring plan in consultation with CDFW. If no special-status plants are found within the Project Area during seasonal rare plant surveys, no further measures pertaining to special-status plants are required.

If special-status plant species are found within the Project Area, the following mitigation measure will be implemented to reduce the impact to less than significant:

- Consult with CDFW to determine appropriate buffer between construction activities and rare plant populations identified during protocol-level surveys to ensure impact avoidance.
- If avoidance is not feasible, implement alternative mitigation measures in keeping with CDFW recommendations. These measures may include but not be limited to:
- Seed collection, plant relocation, reserving a portion of the property for suitable habitat relocation, and implementation of best management practices during construction to avoid any potential indirect impacts to rare plant populations

**Monitoring:** If construction activity is to occur during the blooming season from March 15 to August 31, the pre-construction survey prepared by a qualified wildlife biologist shall be submitted to Planning Division and CDFW staff prior to issuance of the grading permit.

**MM BIO-2:** Prior to working on the Project, the project sponsor shall hire a qualified biologist to conduct pre-construction surveys for special status bird species, nesting birds, and raptors. The pre-construction surveys shall include the following:

- a.) Conduct a take avoidance survey for burrowing owl (BUOW) during the BUOW breeding season (February 1 to August 31) in the manner described in the Staff Report on Burrowing Owl Mitigation, prepared by CDFW, dated March 7, 2012.
  - i. If BUOW are discovered during surveys, no construction shall occur until September 1 or until the qualified biologist has determined all BUOW young have fledged, whichever comes first.
  - ii. If the Project cannot completely avoid impacting active burrows (i.e. burrows used by BUOW within the last 3 years), a qualified biologist shall prepare a BUOW mitigation and monitoring plan based on Mitigation Methods outlined in the Staff Report on Burrowing Owl Mitigation for CDFW review and approval prior to the start of construction to mitigate for the loss of breeding and/or foraging habitat.
  - iii. If no BUOW are discovered during breeding season surveys, but suitable BUOW burrows are present on the Project site, then a qualified biologist shall also conduct non-breeding season surveys (September 1 - January 31) to determine if BUOW use the burrows as wintering habitat.
  - iv. If BUOW are discovered during non-breeding season surveys and impacts to active burrows cannot be completely avoided by the Project, a qualified biologist shall prepare a mitigation and monitoring plan to mitigate for the loss of wintering habitat.
- b.) Conduct clearing and tree and shrub removal operations between September 1 and February 14 to minimize potential impacts to nesting birds

- Monitoring:** Results of pre-construction surveys shall be submitted to the Planning Division and CDFW prior to issuance of the grading permit.

**New Life Community Church** understands and explicitly agrees that with regards to all California Environmental Quality Act and Permit Streamlining Act (Government Code Sections 63920-63962) deadlines, this revised application will be treated as a new project. The new date on which said application will be considered complete is the date on which an executed copy of this project revision statement is received by the Napa County Department of Planning, Building and Environmental Services.

8/20/19  
Date

8/20/19  
Date

**DANIEL EDELSTEIN, ENVIRONMENTAL SCIENTIST & BIOLOGIST**

July 22, 2019  
Project #190722

**To: Mr. John Wambaa**  
New Life Community Church  
1451 American Canyon Road  
American Canyon, CA 94503 (Site)

**Subject: Proposal to submit report (Report) that ensure compliance with the advisory from the Napa County Department of Planning, Building and Environmental Services (City) requesting compliance with Mitigation Measure Bio 1 and Bio 2 (Mitigation Measures).**

Dear Mr. Wambaa

Important highlights of my proposal that you'll read below include conducting actions at your Site to ensure compliance with Mitigation Measures in the advisory received from the City, in addition to the following details related to your project (Project):

1. My proposed actions (below) will ensure your Project complies with with the advisory letter you received from the City. In turn, my actions will support your ability to satisfy the City's request so that you receive a Use Permit for #P16-00210.
2. A survey at your Site that I suggest below will be followed by a Report submittal within five business days.

Consequently, given my Report will suffice as regulatory compliance, my goal is to ensure your Project will proceed without delays.

3. As background, my credentials include 25+ years of experience conducting botanical and surveys for Burrowing Owl and other raptor species living in Napa County (in addition to the region's songbird species) as Avian Biologist. In addition, I am a Certified Wildlife Biologist Asc. with five survey permits from the California Department of Fish and Wildlife (CDFW) and the US Fish and Wildlife Service (USFWS) (permit #101743-0).

My web site — warblerwatch.com — highlights my botanial and nesting bird survey work, which includes more than 30 botanical and bird surveys similar to your Project requirements since 2001 in the North Bay area within which American Canyon occurs. A resume is also present at my web site that notes my nesting bird surveys have occurred in more than 20 California counties.

4. As for budget dynamics, please feel free to note my freelance, sole proprietor status means my costs are likely to be less than a multi-person company that must account for administrative and other overhead costs. These extra costs allow me to confidently state





that I believe my total Not To Exceed dollar figure, below, will be an attractive, cost-effective option for you to consider.

Please see below for my total Not To Exceed quote.

5. Related: I have valid personal and commercial liability insurance policies —both of which are each worth \$1 million dollars (Hiscox Insurance).
6. My proposed Management Action steps (below) appear below.
7. Associated costs with each of my proposed Management Action steps appear in their own section, below.

### **Management Action Step 1 —**

#### **Deliverable:**

#### **Pre-site Visit Research**

Utilizing diverse resources that will be employed to develop my Report(s) following a Survey, I will:

- Research and collect information that will be included in the Report I will submit after my Survey at the Site. Information in my Report will include information I obtain from perusing several online databases to which I subscribe, in addition to employing information that I glean from Google Earth, the California Natural Diversity Database (operated by CDFW) and other online biological databases.
- Utilize my knowledge of permitting regulations, I will ensure via reading and reviewing your Project that my Report will ensure your regulatory compliance all regulatory measures present in the City's advisory to you (e.g., the two Mitigation Measures).

### **Management Action Step 2 —**

#### **Deliverable:**

#### **Survey At The Site To Ensure Compliance With The Mitigation Measures Required By The City (e.g. botanical, Burrowing Owl, and songbird/raptor survey)**

To confirm my pre-site visit information (collected in the above Management Action 1) is correct and to further my understanding of important factors that will be present in the Report submittal that follows after this management action step, I will:

- Conduct a Survey on the Site and, in addition, following the City's advisory to complete Mitigation Measure Bio 1 and Bio 2.
- If and when a rare plant or active Burrowing Owl and/or raptor nest is found, I will advise you of this development. In so doing, I will work together mutually with a California Department of Fish and Wildlife (CDFW) and US Fish and Wildlife Service (USFWS) resource biologists to minimize any of potential Project delays caused by



protection measures that I will implement to ensure your Project complies with protection regulatory measures.

### **Management Action Step 3 —**

#### **Deliverable:**

#### **Letter Summary Report**

This Management Action 3 will ensure you comply with the City's requirement that you have a qualified biologist like myself conduct a Site visit to ensure compliance with the Mitigation Measures.

Note the Report will be written and organized so that the City sees I completed every requirement present in the Mitigation Measures prescription.

Proof of these steps will be present in the Report's narrative, in addition to tables, figures, and maps when necessary.

After conducting the Survey at the Site, my ensuing Report submittal will also include a "Conclusions and Recommendations" section, in addition to other information relating to the Site's environmental conditions; the method by which I conducted my Survey; and other information pertaining to the Site's biological resources that the City will use to assess your Project's merit to receive a use permit.

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### **Management Action Step 4:**

#### **Deliverable: Deterrence Option\***

(\* = Note: this Management Action step may **not** be necessary if no rare plants, active Burrowing Owl and/or songbird/raptor bird nests are found during a Survey that occurs as part of Management Action 3.)

This Management Action will only be necessary if rare plants or Burrowing Owl (or other songbird and raptor species) are found during the Survey. In this case, I would return to the Site no more than once every 14 days to monitor previously noted active bird nests, per their discovery during the Survey. This method will ensure your Project complies with the CDFW's regulatory codes (#3500 series) and, hence, ensure your Project complies with state of California nesting bird regulations. In the event of this scenario, I will provide you more details for my necessary actions.

A deterrence visit and associated costs will only occur upon mutual consent between you and me, with your written approval necessary before I would be allowed to proceed. Costs for this management action would be mutually-agreed upon and only be charged after you invite me to do this additional Management Action.

#### **Not To Exceed Costs:**



Estimated costs for actions listed below are based on a Not to Exceed maximum for each one. The labor costs are based on my standard charge out rate of \$125 per hour.

#### Not To Exceed Cost

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Management Action 1 .....	\$500
Management Action 2 .....	\$1,000
Management Action 3 .....	\$975
<b>Management Action 4#</b> .....	To be determined after mutual agreement occurs. Any actions for this Management Action

(# = As noted above, this Management Action step may **not** be necessary as a deterrence option, if no active bird nests are found during Management Action 3.)  
Thus, the Total Not To Exceed Cost could potentially remain at \$2,475.)

**TOTAL Not To Exceed Cost .....\$ 2,475**  
**(for Management Actions 1-3)**

My Not To Exceed costs in each above option are based on the following:

- 1) Each Management Action is a “Not To Exceed” limit, meaning I will not be allowed to exceed this figure. Therefore, it’s possible an action will be less in cost than a quoted figure, based on my \$125 per hour standard charge out rate.
- 2) Detailed invoices will be developed and submitted at the Not To Exceed dollar maximum limits noted above.
- 3) I maintain valid insurance documents for \$1 million commercial and personal liability (Hiscox Insurance Agency).
- 4) As noted above, all Report submittals will occur no than five business days after I conduct the Survey.
- 5) If possible, please provide to me a copy of any existing and previous technical/compliance reports and maps, such as biological studies, environmental impact reports and any other relevant reports related to the Site or nearby it.
- 6) Information I submit to you will be considered your exclusive property.
- 7) Payment shall occur within 30 days after an invoice is submitted.





## **COST AGREEMENT SUMMARY**

The above scope of work can be completed for no more than the Not To Exceed dollar figures listed above.

I, Daniel Edelstein, am ready to initiate the above scope upon receiving written authorization from you to proceed. This cost estimate is valid for 180 days.

If you wish to proceed, please sign (below), then return one copy of this proposal to me by email or ground mail. Should you have any questions about this proposal, please let me know.

Sincerely, Daniel Edelstein

Consulting Biologist,

Environmental Scientist For CEQA/NEPA Projects,

&

Certified Wildlife Biologist Asc.

(valid federal permit #101743-0 through 2023 from the USFWS

\_\_\_\_\_(signature) \_\_\_\_\_(date)

Mr. John Wambaa

\_\_\_\_\_(signature) \_\_\_\_\_(date)

Daniel Edelstein

