State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

January 13, 2023

Cory Zelmer
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012
ZelmerC@metro.net

Subject: Draft Environmental Impact Report for the Los Angeles Aerial Rapid Transit Project, SCH #2020100007, Los Angeles County Metropolitan Transportation Authority, Los Angeles County

Dear Mr. Zelmer:

The California Department of Fish and Wildlife (CDFW) has reviewed the Los Angeles Aerial Rapid Transit Project (Project) Draft Environmental Impact Report (DEIR) from the Los Angeles County Metropolitan Transportation Authority (Metro). Supporting documentation for the Project includes a *Biological Resource Assessment* (BRA) dated October 2022. CDFW appreciates the opportunity to provide comments and recommendations 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public 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.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public 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 & Game 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 & Game Code, § 2050 et seq.), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The Project would connect Los Angeles Union Station (LAUS) to the Dodger Stadium property via an aerial gondola system in downtown Los Angeles. The proposed 1.2-mile route would travel generally along Alameda Street, Spring Street, and Bishops Road from LAUS to Dodger Stadium, with an intermediate station at the southernmost entrance of the Los Angeles State Historic Park. The proposed aerial gondola system would include aerial cables, passenger stations, a non-passenger junction, towers to support the aerial cables between the stations/junction, and gondola cabins for the passengers.

Location: The proposed Project would be located in the County of Los Angeles, within or adjacent to the communities of El Pueblo, Union Station, Chinatown, Mission Junction, Solano Canyon, and Elysian Park.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist Metro in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Comment #1: Operational Impacts to Birds

Issue: Project operation may impact resident and migratory bird species that move through the alignment area.

Specific impacts: The BRA states, "Potential direct impacts could include bird collisions with the proposed stations, junction, towers, cabins, and ropeway cables, or electrocution if they come in contact with an energized component of the system." The BRA also states, "Significant impacts can occur when towers or wires are constructed in migratory corridors and obstruct the flight paths of migrant birds. This is particularly true for structures equipped with constant (rather than flashing) lighting or reflective surfaces like glass, which tend to attract nocturnal migrants during flight and increase the probability of collision."

Why impacts would occur: The BRA defends that Project operation will not be significant because, "The proposed Project alignment is located on a broad urbanized coastal plain, midway between the coast and the mountains, and lacks significant wetlands or similar habitats that might attract large numbers of migrants as stopover habitat. Given the lack of habitat and topographic features that would promote concentrated avian migratory activity, impacts to migrants, including nocturnal species, are not expected to be significant." While the Project alignment may not be a large stopover habitat for migrant birds, there are numerous accounts, according to eBird, of many birds that utilize the alignment area as habitat. In particular, the Los Angeles State Historic Park has a wide variety of bird species that have been accounted for, including a number of special status species such as the loggerhead shrike (*Lanius ludovicianus*) and Peregrine falcon (*Falco peregrinus*) (eBird 2022). Loggerhead shrike are designated California Species of Special Concern and Peregrine falcon is a species classified as fully protected under CDFW. Even if avian activity is not "concentrated" in this area, the DEIR does not acknowledge the numerous avian species that use the alignment area and its vicinity as habitat. Moreover, there are several locations in the surrounding alignment vicinity with a

wide variety of avian species accounts, including Elysian Park, Los Angeles River, Grand Park, Echo Park, and the Silver Lake Reservoir.

In addition, page 48 of the BRA provides reasoning why collisions with cables will not be significant since the diameter and grouping of the cables would make them more visible. However, there is no evidence to support the claim that the diameter and grouping of the cables would prevent bird collisions to a level that is less than significant. More importantly, take is not permitted for fully protected species, so collisions must be completely prevented for these species. Additionally, there is still potential for lighting and reflective surfaces on the gondolas, stations, and towers that may attract birds and cause collisions, especially if birds are flying during low light hours. Artificial light may attract or disorient migrating birds by disrupting navigation. Resident birds and migrants are also known to collide with windows year-round, not only during migration (Ogden 1996).

Impacts to any sensitive, special status species, and/or migratory bird species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The DEIR does not provide any avoidance, minimization, or mitigation measures to prevent impacts to special status species. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Evidence impacts would be significant: CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC, which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). In addition, fully protected status precludes CDFW from authorizing any amount of incidental take or intentional take (including collisions and/or electrocutions associated with operational impacts) to meet any project mitigation requirement (Fish & G Code, § 3511). When projects show the potential to cause take of fully protected species, CDFW advises on appropriate measures to avoid take. Given the legal status of fully protected animals, take avoidance measures should meet very high standards of effectiveness, substantially greater than the measures to minimize take required under Incidental Take Permits. Lastly, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

The Project's operational impacts have yet to be mitigated below a significant level. Accordingly, the Project continues to have a substantial adverse effect, either directly or through habitat modifications, on avian species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the DEIR include measures to mitigate for collision impacts with the cables, gondola cars, stations, and towers. CDFW recommends Metro

develop an Avian Collision Mitigation, Monitoring, and Adaptive Management Plan to address any bird collisions that may occur. This Plan should prescribe the following:

1. Measures to allow birds to see structures during low light hours. Artificial lighting should be eliminated where unnecessary as to prevent attracting birds or shielded down where possible. The DEIR should investigate different types of lights and lighting regimes with reference to their effect on the safety of migrating birds;
2. Measurable goals and success criteria that eliminates or reduces collisions to the maximum extent feasible. Measurable success criteria should be based on site/habitat conditions prior to Project operations. Collisions should be eliminated for fully protected species as no take can occur for these species;
3. Contingency measures if the success criteria is not met;
4. Long-term monitoring for at least 10 years;
5. Adaptive management techniques.; and
6. Annual reporting criteria and requirements.

Mitigation Measure #2: Any windows in stations, towers, or gondolas should be made visible to birds in flight. This may be achieved by using non-reflective tint or window film. Reflective surfaces should be reduced as much as possible with opaque or translucent surfaces.

Comment #2: Impacts on Burrowing Owls

Issue: The Project may have a significant impact on burrowing owl (*Athene cunicularia*), a designated Species of Special Concern (SSC).

Specific impacts: Burrowing owls have been recorded at the Los Angeles State Historic Park. Project construction and activities may result in injury or mortality of burrowing owls and disrupt natural burrowing owl breeding behavior.

Why impacts would occur: Nest and roost burrows of the burrowing owl are commonly dug by ground squirrels (*Citellus beecheyi)*. According to iNaturalist (2023), there have been accounts of California ground squirrel within Los Angeles State Historic Park, which can provide potential cover sites for burrowing owls. There were no surveys for burrowing owl conducted for the BRA despite the Project alignment transecting through the Los Angeles State Historic Park. The DEIR, therefore, does not provide compensatory mitigation for potential impacts to habitat for burrowing owl. In California, threat factors affecting burrowing owl populations include habitat loss, degradation, and modification. Project activities could result in potential habitat loss or disturbance for burrowing owl .which would subsequently result in local extirpation of the species and contribute to local, regional, and State-wide declines of the species.

According to the DEIR, construction will take approximately 25 months. The Project may therefore temporarily impact habitat supporting burrowing owls for this length of time. However, the DEIR does not disclose how long these temporary impacts may last. Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The DEIR does not provide mitigation for potential loss of habitat supporting burrowing owls. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or

through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Evidence impacts would be significant: The burrowing owl is a designated SSC. An SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2023a).

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. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #3: CDFW recommends burrowing owl protocol surveys be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. Surveys for burrowing owls should adhere to survey methods described in CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation prior to issuing construction permits (CDFW 2012). In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 to April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after 15 June.

If burrowing owls are identified utilizing the Project site during the surveys,-Metro should prepare an Impact Assessment in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. Then, Metro should develop a Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. Metro should contact CDFW to develop appropriate mitigation/management procedures.

Mitigation Measure #4: CDFW recommends that Metro disclose the length of time for temporary impacts to burrowing owl habitat. Based on those temporary impacts, CDFW recommends Metro mitigate for temporary and direct impacts to burrowing owl. There should be no net loss of burrowing owl habitat. Metro should set aside replacement habitat offsite for acreage of impact and number of burrows. Replacement habitat should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term

management of mitigation lands.

Mitigation Measure #5: CDFW recommends that Metro avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.

Comment #3: Tree Removal

Issue: The Project proposes to remove 250 trees along the Project alignment.

Specific impact: The DEIR lists that one protected tree (Mexican elderberry) would require a replacement ratio of 4:1; 82 trees that are non-protected but are significant would require a replacement of 1:1; 34 street trees would be removed and would be replaced "at a ratio agreed upon during consultation with the Urban Forestry Division"; and 75 trees located on State Park Property would be replaced "on California Department of Parks and Recreation State property and private property at a 1:1 ratio". Project activities that result in the removal of trees may cause temporary or permanent impacts to wildlife that utilize the trees as habitat.

In addition, Project activities that involve removal of trees or parts of trees have the potential to result in the spread of tree insect pests and disease into areas not currently exposed to these stressors.

Why impacts would occur: The total replacement ratio of all 250 trees to be removed along the Project alignment is currently unknown. CDFW is therefore unable to determine if these replacement ratios are sufficient in mitigating for impacts to trees removed. The lack of complete mitigation ratios for tree removal in the DEIR may result in an ultimate total net loss of trees associated with the Project activities.

Moreover, all trees on site may provide habitat for wildlife within the Project vicinity. These trees may provide adequate habitat for nesting birds and small mammals. Removal of trees on site may temporarily or permanently impact available habitat for wildlife in the area. The loss of trees should be included in the mitigation efforts.

Lastly, there is no proposed investigation and plan for managing tree pests or pathogens at the time of removal. This may result in the introduction of pests, pathogens, or diseases to areas where they previously have not been found.

Evidence impacts would be significant: The greater Los Angeles area is home to a wide variety of migratory and non-migratory species of birds that utilize the urban ecosystem. Studies have shown that street trees provide necessary foraging habitat to birds and are a critical resource to promote avian biodiversity. Feeding bird density has been shown to be positively associated with increases in density and size of street trees. In addition, there is evidence that avian species generally prefer native street-tree species and only a few nonnative tree species for foraging (Wood & Esaian 2020). CDFW is concerned that without sufficient mitigation for the loss of trees, there will be a negative impact of wildlife species, such as birds, in the alignment area that would use these trees for potential nesting and foraging habitat.

Lastly, without a proper investigation and management plan, the Project may also result in an adverse effect, either directly or through habitat modifications, by exposing other habitats to insect and/or disease pathogens. Exposure to insect and/or disease pathogens may have a

substantial adverse effect on any sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #6: An infectious tree disease management plan should be developed and implemented prior to initiating Project activities. All trees scheduled for removal should be inspected prior to start of those activities for contagious tree diseases including but not limited to: thousand canker fungus (*Geosmithia morbida*), Polyphagous Shot Hole Borer (*Euwallacea spp.*), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2022; UCANR 2022; UCIPM 2013). To avoid the spread of infectious tree diseases, diseased trees, or any parts thereof, should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.

Mitigation Measure #7: Given that the DEIR does not provide justification for how the mitigation ratios presented would adequately reduce Project impacts to below a level of significance while considering temporal loss, native trees, size of trees, potential mitigation failure, or other factors, CDFW recommends replacing native trees with at least a 3:1 ratio. CDFW also recommends replacing non-native trees with at least a 1:1 ratio with native trees. CDFW concurs with the replacement ratio for the Mexican elderberry.

Recommendation #1 Phased Tree Removal: CDFW recommends Metro consider phased removal of trees (i.e., phased Project approach) in order to minimize impacts resulting from the temporal loss of trees and to provide structurally diverse tree replacement habitat while mitigation for impacts to tree removal occurs. CDFW recommends providing nesting perch structures in the interim of replacement trees being installed so as no nesting habitat is lost during construction. Perches should be installed at an appropriate distance from the work area to reduce impacts to nesting birds.

Additional Recommendations

Recommendation #2 Nesting Birds: CDFW concurs with the nesting bird mitigation measure BIO-B as proposed in the DEIR. However, it should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW should be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.

Recommendation #3 Construction Fencing: CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's

talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.

Recommendation #4 Data: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting CNDDB Field Survey Forms (CDFW 2023b). The County should ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The County should provide CDFW with confirmation of data submittal.

Recommendation #5 MMRP: CDFW recommends the County update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the County in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The County is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the County with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

Filing Fees

The Project, as proposed, could have an impact on fish and/or wildlife, and assessment of 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 fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist Metro in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that Metro has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at (562) 292-8105 or Felicia.Silva@wildlife.ca.gov.

Sincerely,

DocuSigned by:
B6E58CFE24724F5...

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW
Victoria Tang, Seal Beach – Victoria.Tang@wildlife.ca.gov
Ruby Kwan-Davis, Seal Beach – Ruby.Kwan-Davis@wildlife.ca.gov
Felicia Silva, Seal Beach – Felicia.Silva@wildlife.ca.gov
Julisa Portugal, Seal Beach – Julisa.Portugal@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov

OPR – State.Clearinghouse@opr.ca.gov

References:

[CDFWa] California Department of Fish and Wildlife. 2023. Species of Special Concern. Available from: https://wildlife.ca.gov/Conservation/SSC

[CDFWb] California Department of Fish and Wildlife. 2023. Submitting Data to the CNDDB. Available from: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data

Ogden, L. J. E. 1996. Collision course: The hazards of lighted structures and windows to migrating birds. Toronto, Canada.

[TCD] Thousand Cankers Disease. 2022. What is Thousand Cankers? Accessed at: http://thousandcankers.com/.

[UCANR] University of California Agriculture and Natural Resources Division. 2022. Invasive Shot Hole Borers. Accessed at: https://ucanr.edu/sites/eskalenlab/?file=/avocado.html.

[UCIPM] University of California Statewide Integrated Pest Management Program. 2013. How to Manage Pests. Pests in Gardens and landscapes. Goldspottted Oak Borer. Accessed at: http://ipm.ucanr.edu/PMG/PESTNOTES/pn74163.html.

Wood, E. M., and S. Esaian. 2020. The importance of street trees to urban avifauna. Ecological Applications 30(7): e02149. 10.1002/eap.2149.

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources			
	Mitigation Measure	**Timing**	**Responsible Party**
MM-BIO-1-Operational Impacts	The DEIR shall include measures to mitigate for collision impacts with the cables, gondola cars, stations, and towers. Metro will develop an Avian Collision Mitigation, Monitoring, and Adaptive Management Plan to address any bird collisions that may occur. This Plan shall prescribe the following: 1. Measures to allow birds to see structures during low light hours. Artificial lighting should be eliminated where unnecessary as to prevent attracting birds or shielded down where possible. The DEIR will investigate different types of lights and lighting regimes with reference to their effect on the safety of migrating birds; 2. Measurable goals and success criteria that eliminates or reduces collisions to the maximum extent feasible. Measurable success criteria shall be based on site/habitat conditions prior to Project operations. Collisions shall be eliminated for fully protected species as no take can occur for these species; 3. Contingency measures if the success criteria is not met; 4. Long-term monitoring for at least 10 years; 5. Adaptive management techniques.; and 6. Annual reporting criteria and requirements.	Prior to Construction and/or ground disturbing activities	Metro

MM-BIO-2-Operational Impacts	Any windows in station, tower, or gondolas will be made visible to birds in flight. This may be achieved by using non-reflective tint or window film. Reflective surfaces shall be reduced as much as possible with opaque or translucent surfaces.	Prior to Construction and/or ground disturbing activities	Metro
MM-BIO-3-Burrowing Owl	Burrowing owl protocol surveys shall be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. Surveys for burrowing owls shall adhere to survey methods described in CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation prior to issuing construction permits (CDFW 2012). In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 to April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after 15 June. If burrowing owls are identified utilizing the Project site during the surveys,-Metro shall prepare an Impact Assessment in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. Then, Metro shall develop a Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. Metro shall contact CDFW to develop appropriate mitigation/management procedures. Metro shall submit a final Burrowing Owl Mitigation Plan to Metro prior to the issuing of construction permits.	Prior to Construction and/or ground disturbing activities	Metro

MM-BIO-4-Burrowing Owl	Metro shall disclose the length of time for temporary impacts to burrowing owl habitat. Based on those temporary impacts, Metro will mitigate for temporary and direct impacts to burrowing owl. There should be no net loss of burrowing owl habitat. Metro should set aside replacement habitat offsite for acreage of impact and number of burrows. Replacement habitat should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands	Prior to Construction and/or ground disturbing activities	Metro
MM-BIO-5-Burrowing Owl	Metro shall avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.	Prior to Construction and/or ground disturbing activities	Metro
MM-BIO-6-Tree Disease Management Plan	An infectious tree disease management plan shall be developed and implemented prior to initiating Project activities. All trees scheduled for removal shall be identified and counted to provide total numbers and species type. In addition, trees scheduled for removal resulting from the Project shall be inspected for contagious tree diseases including but not limited to: thousand canker fungus (*Geosmithia morbida*), Polyphagous Shot Hole Borer (*Euwallacea spp.*), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2020; UCANR 2020; UCIPM 2013). To avoid the spread of infectious tree diseases, diseased trees shall not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.	Prior to Construction and/or ground disturbing activities	Metro
MM-BIO-7-Tree Replacement	Given that the DEIR does not provide justification for how the mitigation ratios presented would adequately	Prior to Construction	Metro

	reduce Project impacts to below a level of significance while considering temporal loss, native trees, size of trees, potential mitigation failure, or other factors, CDFW recommends replacing native trees with at least a 3:1 ratio. CDFW also recommends replacing non-native trees with at least a 1:1 ratio with native trees. CDFW concurs with the replacement ratio for the Mexican elderberry	and/or ground disturbing activities	
REC-1- Phased Tree Removal	CDFW recommends Metro consider phased removal of trees (i.e., phased Project approach) in order to minimize impacts resulting from the temporal loss of trees and to provide structurally diverse tree replacement habitat while mitigation for impacts to tree removal occurs. CDFW recommends providing nesting perch structures in the interim of replacement trees being installed so as no nesting habitat is lost during construction. Perches must be installed at an appropriate distance from the work area to reduce impacts to nesting birds.	Prior to Construction and/or ground disturbing activities	Metro
REC-2-Nesting Birds	It should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.	Prior to Construction and/or ground disturbing activities	Metro
REC-3-Fencing	CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should	Prior to Construction and/or ground	Metro

	include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.	disturbing activities	
REC-4-Data	CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting CNDDB Field Survey Forms (CDFW 2023b). The County should ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The County should provide CDFW with confirmation of data submittal.	Prior to Construction and/or ground disturbing activities	Metro