



TOWN OF WINDSOR JAGUAR WAY EXTENSION PROJECT

RESPONSES TO COMMENTS
ON THE
DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

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JUNE 2020

**TOWN OF WINDSOR JAGUAR WAY EXTENSION PROJECT
RESPONSE TO COMMENTS ON DRAFT IS/MND**

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1. INTRODUCTION

This document provides a response to comments received on the Public Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Town's Jaguar Way Extension Project. Responses provided herein clarify and bolster the analysis and evidence provided in the IS/MND.

In accordance with the California Environmental Quality Act (CEQA) of 1970 (as amended) (California Public Resources Code 21000 et. seq.), the IS/MND was circulated for a 30-day public review and comment period from May 14, 2020 to June 15, 2020.

1.1. CEQA REQUIREMENTS

CEQA Guidelines Section 15074 identifies the responsibilities of the Lead Agency when considering the adoption of a (Mitigated) Negative Declaration:

- (a) Any advisory body of a public agency making a recommendation to the decision-making body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation.
- (b) Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.

Consistent with CEQA requirements, the Town of Windsor has reviewed and considered all comments received on the Draft IS/MND. Although CEQA does not require the lead agency to prepare a response to public comments received on a (Mitigated) Negative Declaration, the Town's Local CEQA Guidelines direct that responses shall be provided to comments that raise significant environmental issues and that responses shall be submitted to the decision making body for consideration along with the environmental document (Windsor CEQA Guidelines Section 11.00.05). As such, the Town of Windsor has prepared this document to fully disclose public and agency comments received and to provide responses to those comments.

2. PUBLIC COMMENTS RECEIVED

Agencies, organizations and individuals that have submitted written comments to the Town regarding the environmental review document prepared for the Jaguar Way Extension Project are listed below.

- 1. California Department of Fish and Wildlife (CDFW)
- 2. Lytton Rancheria

2.1. CDFW COMMENT LETTER AND RESPONSES

The comment letter submitted by the CDFW identifies CDFW's role as a trustee and responsible agency, states the regulatory requirements under CDFW's purview (i.e. California Endangered Species Act and Lake and Streambed Alteration), and presents comments and recommendations to protect biological resources that could potentially occur as a result of the Jaguar Way Extension Project.

RESPONSE TO COMMENTS

Comment #1: Burrowing Owl

CDFW states that land adjacent to the Project area includes nonnative grassland habitat that is potentially suitable for burrowing owls, a California Species of Special Concern and also protected under the Fish and Game Code Section 3503.5 and the Migratory Bird Treaty Act (MBTA). CDFW recommends that burrowing owl surveys be included as a mitigation measure.

Response to Comment #1: Burrowing Owl

Mitigation measure BIO-1 set forth in the Draft IS/MND provides for the protection of migratory birds. Page 39 of the Draft IS/MND notes that "raptors (hawks and owls) are protected under the Migratory Bird Treaty Act." Table 4 of the Biological Resources Analysis identifies burrowing owls as a special status species known to occur within 5 miles of the Jaguar Way project site. The probability of occurrence for burrowing owl was identified as none, due to a lack of suitable habitat, which was based on a site reconnaissance survey, absence of burrows and absence of species that create burrows, such as the California ground squirrel. Nonetheless, to address CDFW's comment that potentially suitable burrowing owl habitat may be present adjacent to the project area, Measure BIO-1 has been augmented to specifically include a pre-construction survey for burrowing owl. See ~~striketrough~~ underline revisions to Measure BIO-1 in the attached Final MMRP.

Additionally, Project biologists, Monk & Associates, responded to CDFW's comment letter and further explains that burrowing owls are not likely to occur and will not be impacted by the Project, see Attachment C hereto.

Comment #2: Western Pond Turtle

CDFW states that Starr Creek and adjacent uplands within the Project area include habitat that is potentially suitable for western pond turtle, a California Species of Special Concern. CDFW recommends that a pre-construction survey for western pond turtle be conducted within 24 hours prior to the start of construction activities.

Response to Comment #2: Western Pond Turtle

Mitigation measure BIO-4, set forth in the Draft IS/MND, provides for the protection of the Starr Creek riparian corridor during construction including temporary wildlife exclusion fencing, revegetating disturbed areas, and precluding the introduction of non-native species, lighting and debris. Table 4 of the Biological Resources Analysis identifies western pond turtle as a special status species known to occur within 5 miles

of the Jaguar Way project site. The probability of occurrence for the western pond turtle was identified as none, due to a lack of suitable habitat, since there are no perennial pools within the reach of Starr Creek adjacent to the project site. Additionally, Project biologists, Monk & Associates, responded to CDFW's comment letter and further explains that western pond turtles are not likely to occur due to the absence of suitable aquatic habitat and upland nesting habitat in the northern reach of Starr Creek at the project site (see Attachment C hereto). Nonetheless, to address CDFW's comment recommending a western pond turtle habitat assessment, survey, and relocation, mitigation measure BIO-4 has been augmented to specifically include a habitat suitability assessment and if detected prepare and implement a relocation plan. See ~~strike through~~ underline revisions to Measure BIO-4 in the attached Final MMRP.

Comment #3: Sensitive Natural Communities

CDFW states that trees may provide nesting, sheltering, and roosting habitat for birds, bats, and small mammals, and that trees may be part of a Sensitive Natural Community. CDFW recommends that the MND evaluate if trees that would be removed are part of a Sensitive Natural Community.

Response to Comment #3: Sensitive Natural Communities

Sensitive communities are discussed in Section 5.2 of the Biological Resources Analysis, which identifies the Starr Creek corridor as a riparian woodland. Page 39 of the IS/MND characterizes the Starr Creek corridor as riparian woodland habitat. The impact analysis under Biological Resources includes a discussion of sensitive habitat (sensitive natural communities) on page 41, discloses potential impacts and identifies mitigation measures BIO-3 and BIO-4 to reduce impacts to less than significant levels. Trees that will be removed within the riparian corridor of Starr Creek are considered to be part of a sensitive natural community. Additionally, impacts within the riparian corridor have the potential to result in direct and indirect impacts to this sensitive natural community. Mitigation measures have been identified to avoid, minimize and offset impacts to sensitive communities including the Town's tree replacement requirements as well as all the expected provisions of the Lake and Streambed Alteration Agreement with the CDFW. As such the IS/MND has adequately considered potential impact to sensitive natural communities and mitigation measure and an LSA agreement with the CDFW will further ensure that potential impacts to sensitive natural communities along the Jaguar Way alignment, limited to the Starr Creek corridor, are reduced to less than significant levels.

Further, the Draft IS/MND identifies tree removal as a potentially significant impact to aesthetic and biological resources (Pages 27 and 42). The Town of Windsor's General Plan EIR recognizes that trees provide habitat or foraging ground for wildlife (General Plan EIR Page 113). The General Plan EIR concludes that compliance with the MBTA and adherence to Chapter 27.36 of the zoning code would reduce potential impacts from tree removal to less than significant levels. As described in the Draft IS/MND tree removal within the Town of Windsor is regulated by Chapter 27.36, Tree Preservation and Protection and mitigation measure BIO-5 set forth therein requires a Tree Preservation and Protection Plan. Therefore, tree removal due to the project would be offset with replacement trees and mitigated in accordance with the Town's uniformly applies development standard for tree mitigation (Chapter 27.36.061).

Additionally, Project biologists, Monk & Associates, responded to CDFW's comment letter and further characterizes sensitive natural communities onsite and in the vicinity in accordance with the Manual of California Vegetation. Blue Oak Woodland, Black Oak Forest, Mixed Riparian Woodland, and Arroyo Willow Thickets are each described. Monk & Associates response letter states that impacts to sensitive natural

communities will be adequately mitigated by implementing the Town's tree ordinance (Measure BIO-5) and complying with any LSA agreement between the Town and the CDFW (Measure BIO-4). Therefore, potential impacts to sensitive communities as a result of the Jaguar Way Project will be mitigated to levels below significance (see Attachment C hereto).

Comment #4: Protection for Nesting Birds

CDFW recommends that additional language be added to measure BIO-1.

Response to Comment #4: Protection for Nesting Birds

CDFW's recommended additional language has been added to measure BIO-1. See ~~striketrough~~ underline revisions to Measure BIO-1 in the attached Final MMRP.

Comment #5: Protection for Bat Species

CDFW recommends that additional language be added to measure BIO-2.

Response to Comment #5: Protection for Bat Species

CDFW's recommended additional language has been added to measure BIO-2. See ~~striketrough~~ underline revisions to Measure BIO-2 in the attached Final MMRP. Additionally, Project biologists, Monk & Associates, responded to CDFW's comment letter and further explains bat survey methodology, see Attachment C hereto.

Comment #6: Lake and Streambed Alteration Agreement

CDFW notes that in addition to their role as a trustee agency, they will also be acting as a responsible agency in issuing a Lake and Streambed Alteration Agreement (LSA). CDFW notes that often tree replacement ratios in LSA Agreements are 1:1 For nonnative trees, 3:1 for trees less than 6 inches (at diameter breast height), 6:1 for trees 6 inches or greater, and 10:1 for oaks.

Response to Comment #6: Lake and Streambed Alteration Agreement

Comment noted. The IS/MND identifies CDFW as a responsible agency and identifies the need for an LSA agreement for activities occurring within the riparian corridor of Starr Creek. Potential impacts to the Starr Creek corridor have been fully evaluated in the Biological Resources Analysis, disclosed in the MND and feasible mitigation measures have been identified to reduce impacts to less than significant levels. Additionally, as described in the responses above, CDFW's comments have been closely considered and mitigation measures have been augmented to include the recommendations offered by the CDFW. Furthermore, Additionally, Project biologists, Monk & Associates, reviewed CDFW's comment letter and prepared responses to each comment, see Attachment C hereto. It is understood that the CDFW has regulatory authority in issuing an LSA agreement and may impose additional requirements beyond those identified in the mitigation measure BIO-4.

2.2. LYTTON RANCHERIA COMMENT LETTER AND RESPONSES

The correspondence received from the Lytton Rancheria representative on June 11, 2020 notes that the Lytton Rancheria Tribe is the closest affiliated Pomo tribe and requests that Tribal Cultural Resources mitigation measures identified in the Draft IS/MND be augmented to include the Lytton Rancheria Tribe in notifications.

Comment #1: Tribal Cultural Resources

Lytton Rancheria requests that tribal cultural resources measures TCR-1 and TCR-2 be amended to specifically include notification to the Tribe.

Response to Comment #1: Tribal Cultural Resources

Mitigation measures TCR-1 and TCR-2 have been augmented to specifically include notification to the Lytton Rancheria Tribe.

3. REVISIONS TO THE DRAFT IS/MND

No direct modifications to the Draft IS/MND have been made as a result of the comments received and the responses provided. Rather, this Response to Comments document along with the Attachments provides additional information and analysis that support the conclusions made in the IS/MND. This Response to Comments document along with the Final MMRP constitute the Final IS/MND.

4. REVISIONS TO THE DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

The MMRP is a mechanism for the Town to verify compliance with prescribed measures to avoid, reduce or offset impacts including those to biological resources and tribal cultural resources, as well as all other environmental categories analyzed in the IS/MND. In accordance with CEQA Guidelines Section 15097 the MMRP identifies each mitigation measure, implementing procedures, the party responsible for monitoring and and verification of compliance.

As described above, comments received from CDFW and the Lytton Rancheria Tribe recommend amendments to a few of the mitigation measures identified in the Draft IS/MND/MMRP. Recommended amendments to mitigation measures have been made in ~~striketrough~~ and underline to the mitigation monitoring and reporting program (MMRP). The Final MMRP, Attachment D hereto, replaces the draft mitigation measure set forth in the Draft IS/MND and the Draft MMRP and shall be implemented by the Town of Windsor as part of the Jaguar Way Extension Project to adequately protect environmental resources and ensure that impacts are reduced to less than significant levels.

5. SUMMARY

The less than significant conclusion of the Draft IS/MND remains valid and is further substantiated by the additional documentation and responses provided herein. The Town of Windsor has considered comments raised and reviewed information developed through the responses-to-comments process, has made revision to the MMRP to address comments, and has determined that the project does not meet any of the conditions under CEQA Section 15073.5, as outlined below.

15073.5. RECIRCULATION OF A NEGATIVE DECLARATION PRIOR TO ADOPTION.

- a) A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption. Notice of recirculation shall comply with Sections 15072 and 15073.
- b) A “substantial revision” of the negative declaration shall mean:
 - 1) 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
 - 2) 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.
- c) Recirculation is not required under the following circumstances:
 - 1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
 - 2) New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed negative declaration which are not new avoidable significant effects.
 - 3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
 - 4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.
- d) If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the project.

Therefore, the recirculation of a revised IS/MND or the preparation of an Environmental Impact Report (EIR) is not required. Consistent with the CEQA Guidelines, the added information contained herein clarifies and bolsters the analyses in the Draft IS/MND.

The Town of Windsor will consider the Draft IS/MND, together with this Response to Comments document, and the Final MMRP, which will constitute the Final IS/MND, prior to acting on the Jaguar Way Extension Project.

ATTACHMENTS

- A. California Department of Fish and Wildlife (CDFW) Comment Letter dated June 3, 2020
- B. Lytton Rancheria Correspondence from Brenda L. Tomaras, June 11, 2020
- C. Memo from Monk & Associates Responding to CDFW Comment Letter, June 15, 2020
- D. Final Mitigation Monitoring and Reporting Program (MMRP), June 2020

**TOWN OF WINDSOR
JAGUAR WAY EXTENSION PROJECT**

**ATTACHMENT A:
CDFW COMMENT LETTER**

RESPONSES TO COMMENTS
ON THE
DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 3, 2020

Mr. Alejandro Perez, Senior Civil Engineer
Town of Windsor
8400 Windsor Road, Building 100
Windsor, CA 95492
aperez@townofwindsor.com

Subject: Jaguar Way Extension Project, Mitigated Negative Declaration, SCH #2020050302,
Town of Windsor, Sonoma County

Dear Mr. Perez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the Town of Windsor (Town) for the Jaguar Way Extension Project (Project) pursuant the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the MND to inform the Town, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW ROLE

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

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

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

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makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

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

PROJECT DESCRIPTION SUMMARY

Proponent: Town of Windsor

Objective: Extend a 0.5-mile-long section of Jaguar Way to provide two vehicle travel lanes, access for pedestrian and bicycles, and connectivity to existing and planned uses along Jaguar Way. This will include a free span bridge over Starr Creek.

Location: The project is in the Town of Windsor, Sonoma County on Jaguar Way between Starr Road and Windsor Road. It is centered at approximately 38.543626 degrees latitude and -122.8206 degrees longitude on Assessor Parcel Numbers 066-180-060, 066-180-064, 164-030-052, 164-440-006, 164-440-005, and 066-180-GAP.

Timeframe: Construction is anticipated to take 18 to 24 and the earliest completion year would be 2023.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the Town in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's below recommendations, CDFW concludes that an MND is appropriate for the Project.

Environmental Setting

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the U.S. Fish and Wildlife Service?

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Comment 1: MND Appendix D Biological Resources Analysis, Table 4

Issue: Land adjacent to the Project area includes nonnative grassland habitat that is potentially suitable for foraging, overwintering, and nesting burrowing owls (*Athene cunicularia*), a California Species of Special Concern and also protected under Fish and Game Code section 3503.5 and the federal Migratory Bird Treaty Act (MBTA). The MND indicates that there is no potential for impacts to burrowing owl due to lack of suitable burrows. However, burrows or artificial burrow surrogates may occur in habitat adjacent to the Project area and burrowing owls may be impacted up to several hundred feet away. Per the MND, the California Natural Diversity Database (CNDDB) documents a 2017 wintering burrowing owl approximately 1.8 miles south of the Project area at the Charles M. Schulz Airport property; a burrowing owl was observed near the same location in November 2019 (Omar Daaboul, Assistant Airport Manager, personal communication, November 2, 2019).

Specific impacts and why they would occur: The Project may result in burrowing owl nest or wintering burrow abandonment, loss of young, and reduced health and vigor of adults or young from audio and visual disturbances caused by construction activities.

Evidence impact would be significant: Burrowing owl is a California Species of Special Concern due to population decline and breeding range retraction. Breeding owls are likely extirpated from Sonoma County (Burridge 1995); however, they could be rediscovered and there have been efforts to promote their recolonization within the county. Based on the foregoing, Project impacts would potentially substantially adversely affect burrowing owl. Therefore, Project impacts to burrowing owl would be potentially significant.

Recommended Mitigation Measure 1: Burrowing owl surveys

To reduce impacts to less-than-significant, CDFW recommends that a qualified biologist conduct surveys following the California Department of Fish and Game (now CDFW) 2012 *Staff Report on Burrowing Owl Mitigation* survey methodology (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>). Surveys shall encompass the Project area and a sufficient buffer zone to detect owls nearby that may be impacted. Time lapses between surveys or Project activities shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 survey methodology resulting in detections. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan.

Comment 2: MND Appendix D Biological Resources Analysis, Table 4

Issue: Starr Creek and adjacent uplands within the Project area include habitat that is potentially suitable for western pond turtle (*Emys marmorata*), a California Species of

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Special Concern. The MND indicates that the species would not occur in the Project area due to a lack of perennial pools within Starr Creek and the species is limited to the Central Valley and Contra Costa County. Starr Creek was identified as suitable western pond turtle habitat by the Sonoma County Water Agency (Cook 2008). The species may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015). Per the MND, CNDDDB documents a 2017 western pond turtle occurrence approximately 0.4 miles southeast of the Project area within the Town's Water Reclamation Facility. A 2016 occurrence approximately 1.1 miles south of the Project area at Windsor Creek near its confluence with Starr Creek was submitted to CNDDDB by Sonoma County Water Agency. Western pond turtles can move more than four miles up or down stream; therefore, the Project area is within the mobility range of the Windsor Creek occurrence (Holland 1994).

Specific impacts and why they would occur. The Project may result in the loss of western pond turtle adults, young, or their nests, or disturbance to the species from construction activities.

Evidence impact would be significant. Western pond turtle is a California Species of Special Concern and declining throughout its range, primarily due to loss of habitat via urbanization and conversion to agriculture (Spinks et al. 2003). Recent prolonged drought has exacerbated species declines (Purcell et al. 2017). Based on the foregoing, Project impacts would potentially substantially adversely affect western pond turtle. Therefore, Project impacts to western pond turtle would be potentially significant.

Recommended Mitigation Measure 2: Western pond turtle habitat assessment, surveys, and relocation

To reduce impacts to less-than-significant, CDFW recommends that a qualified biologist conduct a habitat suitability assessment to determine where western pond turtles may occur in the Project area. In areas of suitable habitat, the qualified biologist shall conduct a pre-construction survey for the species within 24 hours prior to construction activities before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years conducting habitat assessments and surveys for western pond turtles with detections. If any pond turtles or their nests are found, the biologist shall prepare a relocation plan and submit it to CDFW for acceptance, and then implement the plan. Construction activities shall avoid all pond turtles and their nests including an appropriate buffer as determined by the biologist.

Mitigation Measures

Comment 3: MND Pages 28-29 and Page 42, Mitigation Measure AES-1

The MND indicates that 75 to 98 trees will be removed along the Project right-of-way which may qualify as protected trees under the Town's Tree Preservation and Protection Ordinance. According to the MND Appendix A Tree Survey, this will include several large oak trees and other native and nonnative species. These trees may provide nesting, sheltering, and roosting habitats for birds, bats, and small mammals. They also may be part

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of a Sensitive Natural Community according to CDFW's Natural Communities List available on CDFW's webpage at: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>.

CDFW recommends that the MND evaluate if trees that would be removed are part of a Sensitive Natural Community and therefore constitute impacts to a Sensitive Natural Community.

Mitigation Measure AES-1 indicates that trees will be replaced according to a Tree Preservation and Protection Plan identifying protected trees and appropriate replacement planting pursuant to the Town of Windsor Tree Technical Manual. Please provide more details on the replacement ratios, maintenance, and monitoring of the replacement trees. For removed trees that do not qualify as "protected" trees, please evaluate if a replacement ratio should apply; if the tree is part of a Sensitive Natural Community or provides habitat for nesting birds or bats, replacement should be required. Sufficient trees should be planted to offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of older growth habitat structure and diversity. The removal of habitat for birds from human activities has contributed to the loss of a significant proportion of birds in the United States and Canada since the 1970s. According to a study published in 2019 entitled Decline of the North American Avifauna authored by Kenneth V. Rosenberg et al., 90 percent of the total loss is attributable to 12 bird families including sparrows, warblers, blackbirds, and finches, which may all utilize the trees that would be removed by the Project for breeding and foraging.

Comment 4: MND Page 43, Mitigation Measure BIO-1

Mitigation Measure BIO-1 should require: 1) surveys within 500 feet of the Project area for raptors, and 2) biological monitoring of any active nests to ensure it is not disturbed, and that buffers are adjusted by a qualified biologist as needed to avoid disturbance, in addition to existing Mitigation Measure BIO-1 requirements. For all identified nests, prior to construction activities a qualified biologist should conduct a survey to establish a behavioral baseline of birds using each nest. Once construction begins, the biologist should continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, Project activities causing that change should halt and no-disturbance buffers should be implemented as described below; however, continuous mentoring may allow less conservative buffer distances as the biologist will be on-site to detect behavioral changes.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, conservative no-disturbance buffers should be implemented and set around the nest by a qualified biologist, with the buffer distance based on the tolerance level of the non-listed bird or raptor species. These buffers should remain in place until the breeding season has ended or until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival.

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Comment 5: MND Pages 43-44, Mitigation Measure BIO-2

Mitigation Measure BIO-2 should require that the Town review and approve the resumes of biologists proposing to conduct surveys for special-status bat species to ensure each biologist possesses the appropriate specialized qualifications. Resumes should reflect: 1) at least 2 years of experience conducting bat surveys that resulted in detections for the relevant species such as pallid bat (*Antrozous pallidus*) including the Project name, dates, and person who can verify the experience, and 2) the types of equipment used to conduct surveys. Ideally, the resume should also indicate that the biologist possesses a state-issued Scientific Collecting Permit for the relevant species. A survey methodology should also be submitted to the Town for approval. CDFW staff is available to assist the Town with resume and survey methodology review. An initial habitat assessment and survey should occur several weeks or months before Project construction to avoid last minute delays.

Comment 6: MND Page 45, Mitigation Measure BIO-4

Thank you for including the requirement for notification to CDFW pursuant to Fish and Game Code 1602 as a mitigation measure (BIO-4), and the related habitat protection measures for the proposed bridge over Starr Creek, particularly replanting and monitoring requirements. CDFW looks forward to receiving the notification and a detailed revegetation plan. As CDFW anticipates issuing an LSA Agreement for the Project, we will be acting as a Responsible Agency under CEQA, in addition to acting as a Trustee Agency. Please be advised that often tree replacement ratios in LSA Agreements are 1:1 for nonnative trees, 3:1 for trees less than 6 inches (at diameter breast height), 6:1 for trees 6 inches or greater, and 10:1 for oaks. Please consider these ratios when identifying tree planting locations within or near the Project area.

Please be advised that CDFW will likely include the all of the above recommended mitigation measures in the LSA Agreement for the Project, as applicable.

FILING FEES

The Project, as proposed, would 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 and Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends the feasible mitigation measures described above be incorporated as enforceable conditions into the final CEQA document for the Project. CDFW appreciates the opportunity to comment on the MND to assist the Town in identifying and mitigating Project impacts on biological resources.

Mr. Alejandro Perez
Town of Windsor
June 3, 2020
Page 7

Questions regarding this letter or further coordination should be directed to Ms. Melanie Day, Senior Environmental Scientist (Specialist), at Melanie.Day@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at Karen.Weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2020050302)

REFERENCES

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**TOWN OF WINDSOR
JAGUAR WAY EXTENSION PROJECT**

**ATTACHMENT B:
LYTTON RANCHERIA CORRESPONDENCE**

RESPONSES TO COMMENTS
ON THE
DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

Olivia Ervin

From: Alejandro Perez <aperez@townofwindsor.com>
Sent: Thursday, June 11, 2020 11:41 AM
To: Olivia Ervin; gcoleman@bkf.com
Cc: Mona Ibrahim
Subject: FW: Jaguar Way Extension Project

Please see email below.

Thank you,
Alejandro Perez

From: Brenda L. Tomaras <btomaras@mtowlaw.com>
Sent: Thursday, June 11, 2020 11:25 AM
To: Alejandro Perez <aperez@townofwindsor.com>
Subject: Jaguar Way Extension Project

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Mr. Perez,

The Lytton Rancheria has received the notice of the IS/MND and has had the opportunity to review it. First, let me state that as the closest affiliated Pomo tribe, the Lytton Rancheria always responds to notices of project from the Town. I'm not sure if the notice was lost or what, but I am rectifying that now.

Please amend TCR-1 and TCR-2 to require notice of a find to the Lytton Rancheria and consultation with Lytton as to recommended dispositions for the finds encountered.

Thank you.

Brenda L. Tomaras
Tomaras & Ogas, LLP
10755-F Scripps Poway Parkway #281
San Diego, CA 92131
(858) 554-0550
(858) 777-5765 Facsimile

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**TOWN OF WINDSOR
JAGUAR WAY EXTENSION PROJECT**

**ATTACHMENT C:
MONK & ASSOCIATES RESPONSE TO CDFW
COMMENT LETTER**

RESPONSES TO COMMENTS
ON THE
DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

June 15, 2020

Metropolitan Planning Group
1303 Jefferson Street, Suite 100-B
Napa, California 94559

Attention: Ms. Olivia Ervin, Environmental Planner

**RE: Response to Comments from CDFW Regarding the MND
Jaguar Way Extension Project (SCH #2020050302)
Town of Windsor, Sonoma County**

Dear Ms. Ervin:

This letter provides Monk & Associates, Inc. (M&A) responses to comments from the California Department of Fish and Wildlife (CDFW) in their June 3, 2020 letter submitted to the Town of Windsor (Town) regarding the circulated Environmental Checklist and Initial Study /Mitigated Negative Declaration (MND). Below, M&A addresses these comments in sequential order per the CDFW's letter provided to the Town (Applicant).

Comment 1

The CDFW Environmental Scientist, Ms. Melanie Day indicated that the MND does not adequately address concerns related to western burrowing owl (*Athene cunicularia*), a California Species of Special Concern (CSC), under the assumption that this special-status species could occur in the "*land adjacent to the Project area [which] includes nonnative grassland habitat that is potentially suitable for foraging, overwintering, and nesting burrowing owls.*" The comment also says: "*burrows or artificial burrow surrogates may occur in habitat adjacent to the Project area and burrowing owls may be impacted up to several hundred feet away.*" The commenter purports that the project may cause injury or mortality of burrowing owls. This assertion is based upon the presence of one California Natural Diversity Database (CNDDDB) record (Occurrence No. 2023) from 2017 that is located approximately 1.8 miles south of the Project site. An owl was observed in this location in the winter months in 2017 and again in the winter in November 2019, as indicated by CDFW's personal communication with the Assistant Airport Manager, Omar Daaboul. The comment letter also says that "*Breeding owls are likely extirpated from Sonoma County (Burridge 1995); however, they could be rediscovered and there have been efforts to promote their recolonization within the county.*"

Recommended Mitigation Measure 1: Burrowing Owl Surveys

The CDFW recommends that a qualified biologist conduct surveys following the Department of Fish and Game (CDFG) *Staff Report on Burrowing Owl Mitigation* (2012) and that the qualified biologist should have a minimum of two years of experience implementing the CDFW 2012 survey methodology resulting in detections. Time lapses between surveys or Project activities should trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to the Project area.

Detected burrowing owls should be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and any passive relocation plan should be subject to CDFW review.

Response to Comment 1 and Recommended Mitigation Measure 1

With respect to the CNDDDB occurrence cited in the CDFW comment letter, this is one of only 2 records on the Santa Rosa Plain. Occurrence No. 2023 (2017) consists of one adult owl initially observed in a culvert near the Sonoma County Airport in October 2015 and then subsequently observed again in 2017. According to Mr. Daaboul, the Assistant Airport Manager, an owl was observed near the same location in November 2019 although not specifically sighted in the culvert. As such, it is likely that wintering owls are merely moving through the area given that observations do not indicate annual presence at this location and there are no records of nesting burrowing owls within the last 20 years. Rather, the data suggests that this location is favored as a stop-over for transient owls in winter. Further and similarly, most records for Sonoma County overall (only 15 records in total) are winter sightings that occur in association with man-made structures.

Burrowing owl habitat is usually found in annual and perennial grasslands, characterized by low-growing vegetation. While the project site provides a small amount ruderal herbaceous habitat along the northern edge of Jaguar Way, the urbanized nature of the project site and regular high traffic/disturbance due to the proximity of 1) Windsor High School directly south and 2) residential development and a public park, Keiser Park, to the north would discourage owls from nesting here. Excepting this narrow roadside band of ruderal vegetation, the remainder of the project site is either the hardscape of Jaguar Way, landscaping/turf associated with the road and/or the high school or riparian woodland which are not remotely suitable habitat for burrowing owl. Similarly, high amounts of pedestrian traffic at the ball fields and in Keiser Park would also greatly discourage use of these adjacent properties by burrowing owls. Finally, there are no suitable burrows, natural or artificial, to support burrowing owls in these adjacent locations.

The western burrowing owl is a subterranean nester that depends primarily on the presence of burrowing mammals that excavate and leave their burrows open such that the burrows are accessible to western burrowing owls. California ground squirrel (*Otospermophilus beecheyi*) burrows are most commonly used by this owl throughout its nesting range in California. This owl can also use other burrows created by larger burrowing mammals such as the American badger (*Taxidea taxus*) that leave their burrows open and accessible for use by this owl. This owl rarely excavates its own burrows.

In the Santa Rosa Plain, which includes Windsor, California ground squirrel populations are scarce to non-existent. Accordingly, recorded burrow or burrow-like refugia on the Santa Rosa Plain more typically includes debris piles (e.g., downed wood, rock piles) and culvert openings, which do not constitute suitable owl nesting habitat. *Based on the absence of suitable donor burrows for nesting and/or habituation, and the complete absence of California ground squirrels or other large burrowing animals on or adjacent to the project site, and the complete absence of field observations of western burrowing owls on the project site during multiple site surveys conducted by M&A biologists, no impacts to this species are expected to occur from*

implementation of the proposed project. Nonetheless, it is important to note that potential impacts to owls as raptors were, in fact, fully addressed in the MND under nesting birds and preconstruction surveys to avoid take were put forth in Mitigation Measure BIO-2.

However, to adequately address CDFW concerns, a preconstruction survey for burrowing owls within 15 days of ground disturbance will be conducted concurrently with the already proposed preconstruction nesting bird surveys (BIO-2 of the MND) as well as a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to the Project area. M&A staff are well-qualified to conduct burrowing owl surveys in accordance with the CDFG Staff Report on Burrowing Owl Mitigation (2012) survey methodology and have many years of experience doing so with positive detections in many counties in northern California. This preconstruction survey should adequately address any burrowing owl concerns.

Comment 2: MND Appendix D: Biological Resources Analysis, Table 4

The CDFW indicated that the MND does not adequately address concerns related to western pond turtle (*Emys marmorata*), a California Species of Special Concern (CSC), under the CDFW's assumption that this special-status species could occur on the banks and within Starr Creek as well as adjacent upland habitat. The CDFW purports that the project may cause loss of western pond turtle adults, young, or their nests, or disturbance to the species from construction activities based upon the assertion that Starr Creek "...was identified as suitable western pond turtle habitat by the Sonoma County Water Agency (Cook 2008)." While the MND indicated that the species would not occur in the Project area due to a lack of perennial pools within Starr Creek, the CDFW noted that the species, nonetheless, "...may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015). Per the MND, CNDDDB documents a 2017 western pond turtle occurrence approximately 0.4 miles southeast of the Project area within the Town's Water Reclamation Facility. A 2016 occurrence approximately 1.1 miles south of the Project area at Windsor Creek near its confluence with Starr Creek was submitted to CNDDDB by Sonoma County Water Agency. Western pond turtles can move more than four miles up or down stream; therefore, the Project area is within the mobility range of the Windsor Creek occurrence (Holland 1994)." In consideration of the aforementioned records and this species' ability to move more than 4 miles up or down stream, the CDFW believes this species could be present on the project site and subsequently potentially impacted by the proposed project.

Recommended Mitigation Measure 2: Western Pond Turtle Habitat Assessment, Surveys and Relocation

The CDFW recommends that a qualified biologist conduct a habitat suitability assessment to determine where western pond turtles may occur in the Project area. In areas of suitable habitat, the qualified biologist would conduct a preconstruction survey within 24 hours prior to construction activities before construction equipment mobilizes to the project area. The qualified biologist should have a minimum of two years of experience conducting habitat assessments and surveys for western pond turtles with detections. If any pond turtles or their nests are found, the biologist would prepare a relocation plan and submit it to the CDFW for acceptance and then

implement said plan. Construction activities would avoid all pond turtles and their nests including an appropriate buffer as determined by the biologist.

Response to Comment 2 and Recommended Mitigation Measure 2

With respect to Starr Creek being identified as suitable habitat for western pond turtle by the SCWA, this may be true, but it is important to consider the specific reach being addressed in the SCWA document and the specific reach at the project site. The CNDDDB occurrence (Occurrence No. 575) cited in the MND, and subsequently in the CDFW comment letter, that is within 0.4-mile of the project site, is within a storage pond of the Town's Water Reclamation Facility. Given that this record is separated from the project site by significant barriers to overland movement including Windsor Road and a sizable residential development, there is little chance of a turtle successfully migrating from the Town's Water Reclamation Facility, which is presumably fenced to prevent illegal entry as a safety precaution, through this highly urbanized area to Starr Creek which is a highly ephemeral feature in its northern extent. With respect to the 2016 occurrence submitted to the CNDDDB by the SCWA (as referenced in the CDFW letter), the record is located at the confluence of Windsor Creek and Starr Creek. Upon examination of the aerial photograph record (Google Earth Imagery) and 7.5 minute USGS quadrangle maps, it appears that while Starr Creek may have perennial water or near-perennial water at its confluence with Windsor Creek, Starr Creek becomes quite ephemeral in its northern extent and essentially disappears north of Windsor Road up by the project site.

It is probable that Starr Creek at its confluence with Windsor Creek provides more suitable aquatic habitat for western pond turtle than its northern extent where it crosses the western edge of the project site and which subsequently branches off in several directions and fades out. It is also important to note that the northern extent of Starr Creek is largely surrounded by contiguous residential development and lacks the undeveloped open uplands that are favored for nest sites. Coincidentally, the southern reach of Starr Creek, closer to the confluence with Windsor Creek (south of Reiman Lane), has multiple adjacent parcels with undeveloped/open upland habitat that appear suitable for nesting. It is highly unlikely that a turtle would migrate the 1.1 miles north to the project site where Starr Creek lacks perennial aquatic habitat and north of that the creek fades out entirely, not to mention the paucity of proximate nesting habitat given the dense development. Further, there are no other nearby ponds or perennial aquatic features that are useable to western pond turtles migrating up Starr Creek.

Based on the presence of significant barriers to migration from known records, the absence of suitable aquatic and upland nesting habitat in the northern reach of Starr Creek that crosses the project site as compared to the favorable habitat conditions at the confluence with Windsor Creek 1.1 miles south (near the 2016 record), and the complete absence of field observations of western pond turtle on the project site during multiple surveys, no impacts to this species are expected to occur from implementation of the proposed project.

However, to adequately address CDFW concerns, while an informal habitat suitability assessment was already conducted by M&A as part of the reconnaissance surveys for CEQA, a western pond turtle habitat assessment, specifically, will be conducted at the same time as the already proposed preconstruction nesting bird surveys and within 15 days of ground disturbance

(BIO-2 of the MND). A preconstruction survey of areas of suitable habitat will be conducted within 24 hours prior to ground disturbance before construction equipment mobilizes to the Project area. M&A staff are well-qualified to conduct surveys for western pond turtle and have many years of experience doing so with positive detections in many counties in northern California.

Comment 3: Mitigation Measure AES-1 (BIO-5)

The MND indicates that 75 to 98 trees will be removed along the Project right-of-way. The CDFW noted the following:

- 1) These trees may provide nesting, sheltering and roosting habitats for bats, birds and small mammals. The CDFW has requested that removed trees which do not qualify as “protected” but provide nesting habitat, be subject to replacement ratio.
- 2) These trees may be part of a Sensitive Natural Community according to CDFW’s Natural Communities List¹. The CDFW has requested that the MND evaluate if the trees removed are part of a Sensitive Natural Community and if so, a replacement ratio be applied regardless of the tree’s status under the Town’s tree ordinance.
- 3) The CDFW requested more detail on replacement ratios, maintenance and monitoring of replacement trees.

Response to Comment 3

Plant communities, tree removal and tree replacement are only discussed broadly herein as currently there are three potential alignments of the project currently under review and thus, the impacts from the proposed project can only be discussed as a potential range.

Within the project area, the natural communities according to the CDFW’s Natural Communities List as updated by the CDFW in 2019 are outlined below. *Please note that isolated trees along the existing Jaguar Way do not constitute a community and were treated in this analysis as street trees.* Nonetheless, any protected trees slated for impact by the proposed project will be mitigated in accordance with the Town’s tree ordinance.

As requested by the CDFW, M&A has evaluated if any of the trees to be removed within the project boundaries would be considered part of a Sensitive Natural Community according to CDFW’s Natural Communities List. While the plant communities on the project site most readily fit into the Holland ² or Holland and Keil ³ plant community classification systems, to determine if any tree removal will occur within a Sensitive Natural Community per the CDFW, M&A has broken down/reclassified the woody vegetation discussed in the MND into “alliances” as

¹ CDFW (California Department of Fish and Wildlife). 2018. California Sensitive Natural Communities List. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=153609&inline> October 15, 2018.

² Holland, R.F. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. Nongame heritage program, California Department of Fish and Game, Sacramento, CA., 156 pp.

³ Holland, V.L. & D.J. Keil. 1995. California vegetation. Kendall/Hunt Publishing Company.

outlined in the *Manual of California Vegetation*⁴ to facilitate identification of Sensitive Natural Communities which is based upon this new classification system.

Blue Oak Woodland

North of Jaguar Way, a few blue oak (*Quercus douglasii*) trees at the edge of the woodland in the eastern portion of Keiser Park are slated for removal. This community best fits the *Manual of California Vegetation Quercus douglasii* Woodland Alliance. Blue oak woodland (*Quercus douglasii* Woodland Alliance) vegetation type is *not recognized as rare* by the Natural Communities List, California Code 71.020.05 and has a California state ranking of S4 for the alliance (apparently secure).

Oak woodland in California most commonly consists of scattered trees and shrubs with an understory of grasses and forbs. The blue oak woodland that M&A observed just north of the project site (off the project site) adheres to this common community structure and more importantly, this association (*Quercus douglasii* and grass) is not recognized as rare by CDFW. Please note that, regardless, 99% of the woodland stand north of the project site will remain intact and tree removal will be minimal from the proposed project.

The following natural communities all occur as part of the riparian woodland community along Starr Creek which was fully described, and impacts fully evaluated, in the MND. Of the alliances/associations discussed below and where tree removal is identified, two alliances/associations may be considered Sensitive Natural Communities according to the CDFW. Again, impacts to these communities were fully evaluated in the MND.

Black Oak Forest

Along Starr Creek, several black oak (*Quercus kelloggii*) trees are targeted for removal within this plant community/association. This community best fits the *Manual of California Vegetation Quercus kelloggii* (black oak) Forest Alliance. The black oak forest (*Quercus kelloggii* Forest Alliance) vegetation type is *not recognized as rare* by the Natural Communities List, California Code 71.010.08 (*Quercus kelloggii/Toxicodendron diversilobum*) and has a California state ranking of S4 for the alliance (apparently secure). The overstory is dominated by black oak with scattered blue oak and Oregon ash (*Fraxinus latifolia*) with a sparse shrub layer consisting of poison oak (*Toxicodendron diversilobum*) as well as California rose (*Rosa californica*), coyote brush (*Baccharis pilularis* ssp. *consanguinea*) and blackberry (*Rubus armeniacus* and *R. ursinus*).

Valley Oak and Oregon Ash Mixed Riparian Woodland

Oregon ash (*Fraxinus latifolia*) and valley oak (*Quercus lobata*) grow along portions of Starr Creek where potential tree removal is proposed for the project. A few mature black oaks are also grouped together and mixed in with the tree canopy in this

⁴ Sawyer, J.O. and T. Keeler-Wolf. 1995. A manual of California vegetation. Published by the California Native Plant Society. 471 pps.

location. Valley oak woodland (*Quercus lobata* Woodland Alliance) vegetation type is *recognized as rare* by the Natural Communities List (CDFW 2018 as updated in November 2019), California Code 71.040.05, and has a California state ranking of S3 (**vulnerable**). Oregon ash groves are recognized by California Code 61.960.04, and this community has a state ranking of S3 (**vulnerable**). This means this community is vulnerable in the State due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation in California (*In: CDFW's California Sensitive Natural Communities*, October 15, 2018). ***Impacts to this Sensitive Natural Community will already be adequately mitigated for under the Town's tree ordinance as well as in accordance with any LSAA Agreement issued by the CDFW, both of which require tree replacement accounting for size/maturity of the trees removed.***

Arroyo Willow Thickets

Along the east side of Starr Creek, several arroyo willow (*Salix lasiolepis*) trees are proposed for removal within a plant community which most closely resembles arroyo willow thickets (*Salix lasiolepis* Shrubland Alliance) as described in the *Manual of California Vegetation*. Arroyo willow thickets are recognized by the Natural Communities List, California Code 61.201.00, and this community has a state ranking of S4 (apparently secure). Nonetheless, this *may* be considered a sensitive community depending on which associated species are dominant in a given location. For example, the *Salix lasiolepis* – *Baccharis pilularis* – *Rubus ursinus* association as recognized by California Code 61.201.05 has a state ranking of S3 (**vulnerable**). Alternatively, the *Salix lasiolepis* – *Rosa californica* association as recognized by California Code 61.201.08 has a state ranking of S4 (apparently secure). As such, the rarity of the arroyo willow thickets is debatable or perhaps stated more accurately, mixed, within the project area.

While many of the trees that may be removed provide potential nesting habitat for birds or bats, ample habitat for nesting/roosting will remain in the immediate area. Further, the bulk of the trees identified for potential removal fall either under the Town's tree ordinance as a protected tree or will be addressed as part of the LSA Agreement negotiated with and issued by the CDFW. Those trees that are not covered under the Town's tree ordinance or the LSA Agreement are predominantly planted street trees such as red oak (*Quercus rubra*), London planetree (*Platanus hybrida*), tulip tree (*Liriodendron tulipifera*) and Coast redwood (*Sequoia sempervirens*).

As noted in the MND, trees will be replaced according to a Tree Preservation and Protection Plan. As part of this plan, tree replacement will be proposed pursuant to the Town of Windsor Tree Technical Manual and the Town's Tree Preservation and Protection Ordinance (Chapter 27.36.040 of the Town's Code). While replacement is ultimately specified/approved by the Town, further detail is provided herein on appropriate replacement ratios as summarized from: a) pages 8-11 of the Town's Tree Preservation and Protection Ordinance and from, b) pages 19-21 of the Tree Technical Manual (Table A below).

Per the protection ordinance (Chapter 27.36.040 of the Town's Code), all protected trees as determined to be in good or excellent health with good structure, will be replaced on a 1:1 trunk diameter (impacts to mitigation) basis and those in marginal health with marginal structure will be replaced at 2:1 trunk diameter basis (impacts to mitigation). Further, the Town has specific minimum container sizes that must be used unless the Town approves alternate replacement tree sizes.

Alternately, the Tree Technical Manual outlines the following tree canopy replacement ratios which may also be used.

Table A. Tree Replacement Ratios per the Tree Technical Manual

Dripline Canopy Diameter of Tree Removed	Required Replacement Trees	Alternative Replacement Trees
4-9 feet	2 x 24" boxes	1 x 36" box
10-27 feet	3 x 24" boxes	2 x 36" boxes
28-40 feet	4 x 24" boxes	2 x 48" boxes
40-56 feet	6 x 24" boxes	2 x 48" + 2 x 36" boxes
56 feet or more	2 x 48" + 2 x 24" + 2 x 36"	-----

Where a tree cannot be replaced onsite, due to crowding or other physical constraints, the value of the tree will be determined as outlined within the Tree Technical Manual and the Town's Zoning Ordinance. That sum of money shall be used in order of preference, as approved by the Town: 1) provide additional trees elsewhere on the site; 2) to add or replace street trees or other public landscaping in the vicinity, or 3) to add trees or other landscaping to another Town property.

Trees that are impacted within CDFW Section 1602 jurisdiction (top of bank to top of bank or outside edge of riparian corridor) will be replaced in accordance with replacement ratios as negotiated with the CDFW and set forth in the LSA Agreement issued for the project. This will be fully detailed in a Revegetation Plan that will be submitted to the CDFW as part of the LSA Agreement application package. Proposed maintenance and monitoring will be included in this plan.

Comment 4: MND Page 43, Mitigation Measure BIO-1

The CDFW requested that Mitigation Measure BIO-1 require the following:

- 1) Surveys within 500 feet of the project site for raptors
- 2) Biological monitoring of any active nests to ensure that it is not disturbed, and
- 3) Buffers be adjusted by a qualified biologist as needed to avoid disturbance, in addition to existing Mitigation Measure BIO-1 requirements.
- 4) For all identified nests, prior to construction activities, a qualified biologist should conduct a survey to establish a behavioral baseline of the birds using each nest.

- 5) Once construction begins, the biologist should continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, Project activities causing that change should halt and no-disturbance buffers should be implemented as described below; however, continuous monitoring may allow less conservative buffer distances as the biologist will be on-site to detect behavioral changes.
- 6) If continuous monitoring is not feasible, conservative non-disturbance buffers should be implemented by a qualified biologist with the buffer distance based upon the tolerance level of the non-listed bird or raptor species. Buffers should remain in place until the young have fledged and are no longer reliant on the nest or parental care for survival.

Response to Comment 4

M&A finds the CDFW's suggested revisions to Mitigation Measure BIO-2 to be largely appropriate. If nests are detected during nesting surveys, protective buffers shall be established to protect the nesting birds, as stated in BIO-1. However, the size of the buffer will be determined not only based on the bird's tolerance to disturbance but also on the type of birds nesting (e.g., a mockingbird nesting versus a red-tailed hawk). Appropriately sized nesting buffers shall be established by the qualified biologist and the buffers will be fenced and could not be removed prior to September 1st unless a qualified biologist determines that the young have fledged and are independent of the nest, or the biologist determines that the nesting cycle has otherwise completed. By establishing these requirements, continuous biological monitoring of any active nest is unnecessary unless buffers would be removed prior to the end of the recognized nesting season, which is approximately September 1st. Should the applicant wish to have a nesting buffer removed prior to September 1st, daily monitoring leading up to the buffer removal date would be necessary.

Comment 5: MND Pages 43-44, Mitigation Measure BIO-2

The CDFW believes that Mitigation Measure BIO-2 should require the following:

- 1) Town review and approval of all resumes of qualified biologists proposing to conduct surveys for special-status bat species. Resumes should reflect:
 - a. at least 2 years of experience conducting bat surveys that resulted in detections for the relevant species including the Project name, dates and person who can verify the experience and;
 - b. the types of equipment used to conduct surveys. Ideally, the resume should also indicate that the biologist possesses a state-issued Scientific Collecting Permit for the relevant species.
- 2) Town review and approval of a survey methodology. This should include an initial habitat assessment and survey several weeks or months before Project construction to avoid last minute delays.

Response to Comment 5

M&A has several biologists on staff that have been conducting bat surveys for many years and that are well-qualified to survey for special-status bat species. For the Jaguar Way Extension

Project, an initial habitat assessment by M&A was conducted in 2017 as part of the reconnaissance survey to document baseline conditions and then again in 2019 to update those observations. Both surveys were conducted by a qualified M&A biologist. The project site has several mature oaks (*Quercus lobata*, *Q. kelloggii* and *Q. douglasii*) that could provide potential roosting habitat for special-status bats such as pallid bat (*Antrozous pallidus*). Consequently, prior to tree removal or trimming, bat surveys of trees slated for removal should be re-conducted to determine if there is a special-status bat roost or maternity site on the project site.

Survey methods for bats would include visual inspection of all trees and buildings. High-powered (10 x 42) binoculars would be used to search for active bat roosts and maternity sites. Each tree to be removed will be thoroughly examined for presence of bats prior to removal. To determine if special-status bats could be using the trees on the project site, survey methods will include inspection of all cavities in each tree or loose (exfoliated) bark that could serve as cover for/concealment of a special-status bat(s). The surveyor will also examine the ground for evidence of bat droppings and/or an accumulation of guano.

Note that bats could be surveyed using frequency detection equipment, but this equipment typically would only indicate that certain bats are flying in the area of the project site. The presence of flying bats on or near a project site would not be indicative that special-status bats are roosting on the project site or that the project site provides maternity habitat for such bat detections. Accordingly, the methods that M&A uses to actually inspect potential bat maternity and roost sites are far more effective than the frequency detectors in detecting and visually confirming the presence of actual maternity and/or roosting sites, thus the presence of special-status bats can better be addressed prior to the removal of any located maternity or roosting habitats in use by special-status bats.

If special-status bats are detected roosting or breeding in the trees that will be disturbed or removed, no further actions would occur with respect to those trees until approval is received from the CDFW for the removal of these bats. In seeking approval to remove special-status bats, the qualifications of the biologist that would implement bat removals would be reviewed and approved by the CDFW, prior to the removal or trimming of any tree on the project site.

As M&A would not handle bats, accordingly our biologists do not need the intensive training required for handling bats that is inferred by CDFW's comment letter, which besides species training requires full pre-inoculation for rabies prevention. Nonetheless, M&A biologists have significant experience identifying special-status bats. M&A will ensure that only experienced bat surveyors will conduct the required bat surveys, and that if bats must be removed from trees prior to their removal, that an approved bat biologist would conduct these activities.

Comment 6: MND Page 45, Mitigation Measure BIO-4

Per the MND, a notification to the CDFW pursuant to Fish and Game Code 1602 is required a Mitigation Measure BIO-4. To this end, the CDFW requested that applicant be aware of the following:

- 7) As the CDFW anticipates issuing an LSA Agreement, it will be acting as a Responsible Agency under CEQA as well as a Trustee Agency.
- 8) A detailed revegetation plan will be anticipated with submittal of the notification to the CDFW.
- 9) Often tree replacement ratios in LSA agreements are 1:1 for non-native trees, 3:1 for trees less than 6 inches diameter at breast height or “dbh”), 6:1 for trees 6 inches or greater dbh, and 10:1 for oaks.

Response to Comments 6

M&A understands the additional role that the CDFW will be fulfilling under CEQA pursuant to anticipating issuance of an LSA Agreement for the project and a detailed revegetation plan will included with any Section 1602 permit application submitted on behalf of the applicant. The applicant will abide by the tree replacement ratios as negotiated with the CDFW and subsequently set forth in the LSA Agreement issued for the project. It is important to note that there is limited area for replanting within this narrow and highly urbanized project site/right-of-way and this will need to be considered during negotiations with the CDFW regarding mitigation.

This concludes M&A’s response to biology-related comments on the MND for the Jaguar Way Extension Project. If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,



Christy Owens
Associate Biologist

**TOWN OF WINDSOR
JAGUAR WAY EXTENSION PROJECT**

**ATTACHMENT D:
FINAL MMRP**

RESPONSES TO COMMENTS
ON THE
DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

**Draft Final Mitigation Monitoring and Reporting Program
Jaguar Way Extension Project**

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
				Initial/Date	Comments
AESTHETICS					
<p>AES-1:</p> <p>Prior to Final Design the Town shall update the tree inventory and prepare and implement a Tree Preservation and Protection Plan addressing tree protection for trees to remain and identifying replacement for trees to be removed to accommodate Jaguar Way Extension. The Town of Windsor shall ensure that trees to remain are adequately protected during construction activities and that trees to be removed are replaced in accordance with Town's Tree Preservation and Protection Ordinance (Chapter 27.36.040 of the Town's Code).</p> <p>To protect trees that will be preserved from injuries that may result from construction activities such as root, trunk or branch damage or harm during site preparation, grading and trenching, the Town shall prepare and implement a Tree Preservation Plan addressing preservation such as the following:</p> <ul style="list-style-type: none">• Establish a tree protection zone (TPZ) to be inspected and verified by a qualified arborist• Install tree protection fencing and signage around the TPZ prior to construction• Restrict demolition, soil grading, trenching, and parking of vehicles within the TPZ	<p>Prepare and implement a Tree Protection and Preservation Plan</p> <p>On-site observation</p> <p>Incorporate into project design and print on construction documents.</p>	<p>The Town of Windsor</p> <p>Project Contractor</p> <p>Qualified Arborist</p>	<p>Prior to project construction</p> <p>Monitor during regularly scheduled inspections to verify that measures are in place</p>		

**Draft Final Mitigation Monitoring and Reporting Program
Jaguar Way Extension Project**

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<ul style="list-style-type: none"> • Cover exposed soil under canopies and throughout the TPZ with mulch (excluding trees within the riparian corridor of Starr Creek) • Preclude ornamental landscape, filling, cutting or compaction of soils within the tree drip line • Preserve oak leaf litter below the drip line of protected trees • Monitoring soil moisture to ensure that soil remains moist to a depth of 18 inches • Conduct pruning by qualified personnel in accordance with current industry standards, and • Monitor all trenching and excavation activities inside the TPZ by a qualified arborist and as feasible preclude the use of heavy-equipment. <p>In order to mitigate the removal of protected trees onsite, the Town shall prepare and implement a Tree Preservation and Protection Plan identifying protected trees and appropriate replacement planting pursuant to the Town of Windsor Tree Technical Manual. Tree Replacement requirements shall be reflective of the Town's replacement ratios for In-Kind Replacement. In the event that replacement plantings necessary to achieve the Town's standard is not able to be accommodated on the project site, then offsite replacement locations shall be identified through the Project's Tree Preservation and Protection Plan.</p>					

Draft Final Mitigation Monitoring and Reporting Program
Jaguar Way Extension Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<p>AES-2:</p> <p>Prior to Final design of Jaguar Way Extension the Town shall prepare and implement a landscaping plan to introduce street trees and vegetation along the new roadway and within and adjacent to retention areas and bioswales. The plant pallet selection shall utilize low water-use plants as identified by the Town of Windsor and shall preclude invasive species. Further, the plant pallet selection and location shall identify native and riparian species proximate to Starr Creek and limit the use of ornamental species to previously disturbed and developed areas along Jaguar Way Extension.</p>	Prepare and implement a landscaping plan	<p>Town of Windsor</p> <p>Qualified Landscape Specialist</p> <p>Qualified Biologist</p>	Monitor periodically following project construction		
<p>AES-3</p> <p>The temporary staging area located in Keiser Park shall be situated in a manner so as to minimize temporary visual impacts to Keiser Park. The staging area shall be maintained to keep equipment, materials and stockpiles away from highly visible areas and screened as appropriate with temporary construction fencing. The construction staging area shall be kept clear of debris, weeds and trash during all stages of construction and shall be fully removed and restored to pre-staging conditions following completion of Jaguar Way Extension improvements.</p>	Incorporate into project design and print on construction documents (demolition, grading and building plans).	<p>Town of Windsor</p> <p>Project Contractor</p>	Monitor during construction to verify that measures are in place		

**Draft Final Mitigation Monitoring and Reporting Program
Jaguar Way Extension Project**

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
				Initial/Date	Comments
AES-4 Prior to final design, a street lighting plan shall be prepared and reviewed by the Town Engineer. To maintain an appropriate lighting environment, the project shall construct lighting fixtures in accordance with the Town's light and glare standards as codified in the Town of Windsor Zoning Ordinance Section 27.20.030.D. Standards specified by this section include, but are not limited to, lamp characteristics; glare control; the maximum wattage allowed; fixture height; and minimum and average illumination. New lighting introduced within and adjacent to the Starr Creek corridor shall be downcast, screened and precluded from spilling over beyond the roadway right of way.	Incorporate into project design and print on construction documents	Town of Windsor	Prior to project construction Monitor during regularly scheduled inspections to verify that measures are in place		
AIR QUALITY					
AQ-1: Latest BAAQMD Best Management Practices (BMPs) to control for fugitive dust and exhaust during all construction activities shall be incorporated into all demolition and construction plans to require implementation of the following: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and	Incorporate into project design and print on construction documents On-site observation	Town of Windsor Project Contractor/ Construction Manager	Once during plan review Monitor during regularly scheduled inspections to verify that measures are in place		

Draft Final Mitigation Monitoring and Reporting Program
Jaguar Way Extension Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<p>unpaved access roads) shall be watered two times per day.</p> <p>2. All haul trucks transporting soil, sand, or other loose material shall be covered.</p> <p>3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</p> <p>4. All vehicle speeds on unpaved roads shall be limited to 15 mph.</p> <p>5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified</p>					

Draft Final Mitigation Monitoring and Reporting Program
Jaguar Way Extension Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<p>mechanic and determined to be running in proper working condition prior to operation.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p>9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab sample or moisture probe.</p> <p>AQ-2:</p> <p>Implement a plan demonstrating that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 75-percent reduction in diesel particulate matter exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:</p> <p>1. All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall meet U.S. EPA Tier 4 particulate matter emissions standards. Alternatively, the following types of equipment would also meet this requirement:</p>	<p>Incorporate into project design and print on construction documents</p> <p>On-site observation</p>	<p>Town of Windsor</p> <p>Project Contractor</p> <p>Construction Manager</p>	<p>Once during plan review</p> <p>Monitor during regularly scheduled inspections to verify that measures are in place</p>		

**Draft Final Mitigation Monitoring and Reporting Program
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<p>Tier 3 engines that include CARB-certified Level 3 Diesel Particulate Filters (or equivalent), or the use of equipment that is electrically powered or uses non-diesel fuels.</p> <p>2. Temporary line power shall be available to minimize use of portable diesel-powered equipment.</p> <p>3. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</p> <p>4. Minimize the idling time of diesel powered construction equipment to two minutes.</p>					
BIOLOGICAL RESOURCES					
<p>BIO-1:</p> <p>To avoid impacts to nesting birds protected under the Migratory Bird Treaty Act, construction activities including, site preparation, demolition, and/or removal of trees should occur outside of the bird-nesting season between September 1st and January 31st. If construction activities must occur between February 1st and August 31st (during the bird nesting season), then a pre-construction bird nesting survey, <u>including for burrowing owls</u>,</p>	<p>Conduct a pre-construction nesting bird survey by a qualified biologist if construction would occur during the bird nesting season</p>	<p>Town of Windsor Project Contractor Construction Manager Qualified biologist <u>CDFW (if burrowing owls are detected)</u></p>	<p>Prior to construction Periodically monitor during construction if nests are found</p>		

**Draft Final Mitigation Monitoring and Reporting Program
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Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<p>shall be conducted within seven (7) and up to 15 days prior to start of work. <u>A final survey within 24 hours prior to ground disturbance shall be conducted.</u> The bird nesting survey will <u>shall</u> include an examination of buildings/structures and trees onsite and within 200 feet <u>and expanded to 500 feet for raptors (hawks and burrowing owls)</u> of the project site (i.e. within a zone of influence of nesting birds), not just trees slated for removal. The zone of influence includes area outside the project limits where birds could be distributed by construction activity and related noise and vibration.</p> <p>If nesting birds are identified, then the qualified biologist with extensive experience working with nesting birds near construction sites shall establish a temporary protective nest buffer around the nest(s), <u>conduct a survey to establish behavioral baseline of birds using each nest, and conduct monitoring to ensure it is not disturbed.</u> The nest buffer will be staked or fenced to establish a construction exclusion perimeter <u>and shall be adjusted by a qualified biologist as needed to avoid disturbance.</u> The buffer shall be of sufficient size to protect the nesting site from construction-related disturbance. Typically, adequate nesting buffers are 50 feet from the nest site or nest tree dripline for small birds and up to 300 feet for sensitive raptors. Upon completion of nesting</p>	<p>The Town of Windsor shall be provided with the resume of the qualified biologist demonstrating nesting bird survey and detection experience</p> <p><u>The qualified biologist shall have minimum of 2 years experience implementing the CDFW 2012 survey methodology resulting in detections</u></p> <p>If necessary, establish a protection buffer zone</p> <p><u>Surveys for burrowing owl shall follow the</u></p>				

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<p>surveys, if nesting birds are identified a qualified ornithologist/biologist shall prescribe adequate nesting buffers to protect the nesting birds from harm while the project is being constructed. <u>If continuous monitoring is not feasible, conservative no-disturbance buffer(s) should be established, with the buffer distance based on the tolerance level of the nesting species.</u></p> <p>No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1st unless it is determined by a qualified ornithologist/biologist who is monitoring nesting behavior that the young have left the nest and have attained sufficient flight skills to avoid construction zones, or that the nesting cycle is otherwise completed. At the end of the nesting cycle, and fledging from the nest by its occupants, as determined by a qualified biologist, temporary nesting buffers may be removed, and construction may commence in established nesting buffers without further regard for the nest site.</p> <p>The biologist/ornithologist conducting the surveys shall provide the Town of Windsor with a report detailing the results of the survey and any recommendations required for establishment of protective buffers, if tree removal or demolition activities occur between February 1st and August 31st.</p>	<p><u>CDFW 2012 Staff Report on Burrowing Owl Mitigation survey methodology</u></p> <p><u>Time lapses between survey and project activities shall trigger subsequent surveys including but not limited to a final survey within 24 hours of construction</u></p> <p><u>Detected burrowing owls shall be avoided per the CDFW 2012 protocol, unless otherwise approved in writing by CDFW, as well as any eviction plan</u></p>				

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<p>BIO-2:</p> <p>In order to avoid impacts to the Pallid bat, and other species-status bat species, a qualified biologist shall conduct pre-construction surveys of trees and buildings/structures onsite and within a 200-foot radius (or as otherwise determined by the biologist) 15 days prior to commencing construction work including tree removal, demolition, and/or grading activities. The survey for bats shall occur regardless of the time of year (since there is no defined bat roosting season as there is with nesting birds). All bat surveys shall be conducted by a biologist with experience surveying for bats. If no special-status bats are found during the surveys, then there would be no further regard for special-status bat species.</p> <p>If special-status bat species are found roosting on the project site or in the vicinity, the biologist shall determine if there are young bats present (i.e., the biologist shall determine if there are maternal roosts). If young are found roosting in any tree or building/structure that will be removed or demolished, construction shall be postponed until the young have reached independence. A non-disturbance buffer with orange construction fencing shall be established around the maternity site. The size</p>	<p>Conduct a pre-construction survey by a qualified biologist</p> <p>Provide the Town of Windsor with the resume of the qualified biologist demonstrating roosting bat survey and detection experience</p> <p><u>Resumes of the qualified biologist shall reflect at least 2 years of experience conducting bat surveys that resulted in detections for</u></p>	<p>Town of Windsor Project Contractor/ Construction Manager Qualified Biologist</p>	<p>Prior to construction</p> <p>Provide the pre-construction survey to the Town</p> <p>Periodically monitor during construction if special status bat species are found</p>		

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Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<p>of the buffer zone shall be determined by a qualified bat biologist at the time of the surveys. If adults are found roosting in a tree or building/structure on the project site or in the vicinity, but no maternal roosts are found, then the following measures shall be undertaken:</p> <ul style="list-style-type: none"> Tree trimming and/or removal shall only be conducted during seasonal periods of bat activity: between August 31 and October 15, when bats would be able to fly and feed independently, and between March 1 and April 15 to avoid hibernating bats, and prior to the formation of maternity colonies. Any trees that will be removed and have been identified by a qualified bat biologist as having potentially suitable bat roost habitat, should be removed using a two-day phased removal method as follows: <ul style="list-style-type: none"> On day one, in the afternoon, limbs and branches shall be removed using chainsaws only. Limbs with cavities, crevices, and deep bark fissures should be avoided. On day two, the rest of the tree shall be removed under the direct supervision of a qualified bat biologist. If tree removal must occur outside of the seasonal periods of bat activity (see above), 	<p><u>the relevant species including the project name, dates, and person who can verify the experience, and the types of equipment used to conduct surveys. Preferably the qualified biologist would also possess a state-issued Scientific Collecting Permit for the relevant species.</u></p> <p>On-site observation</p> <p>If necessary, establish a protection buffer zone</p>				

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<p>then a qualified bat biologist (with at least two years of direct bat surveying experience) shall conduct a pre-construction survey within 14 days of starting construction work. If the qualified biologist finds evidence of bat presence during the surveys, then a Bat Removal and Exclusion Plan shall be developed in conjunction with the CDFW.</p> <p>The biologist conducting the surveys for the Project shall provide the Town of Windsor with <u>the survey methodology prior to initiating pre-construction bat surveys</u> and a report detailing the results of the survey and any recommendations, as warranted, required for establishment of protective buffers for bat roosts.</p> <p>BIO-3:</p> <p>To the greatest extent feasible jurisdictional features shall be avoided through design modifications that preclude fill or other modifications to seasonal wetlands. Given the narrow roadway alignment, a minimum of approximately 0.0456 acres and up to 0.075 acres of seasonal wetlands may be directly filled in order to accommodate the multi-modal roadway and associated improvements. Impacts to jurisdictional wetlands that cannot be avoided shall be offset as follows:</p>	<p>Purchase wetland mitigation credits</p> <p>Secure 401 and 404 permits</p>	<p>Town of Windsor</p> <p>Qualified Biologist</p> <p>Outside Agencies (U.S. Army Corps of Engineers; and Regional Water Quality Control Board)</p>	<p>Prior to construction</p> <p>Ongoing monitoring during construction</p> <p>Following project construction ongoing</p>		

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Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Schedule	Compliance Verification	
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<ul style="list-style-type: none"> • Creation of new wetlands at a suitable location that remain inundated or saturated for sufficient duration to support hydrophytic vegetation and exhibit plant and invertebrate species richness comparable to existing wetlands. • Replacement a minimum ration of 1:1, one acre of created wetland for each acre or fraction thereof removed. • Creation of in perpetuity preservation for newly created wetlands through a deed restriction of conservation easement. • Establishment of a five-year monitoring program to monitor the progress of the created wetland toward meeting established goals. At the end of each monitoring year, an annual report shall be submitted to the USACE, RWQCB, and other resource agencies that permitted the project. The report shall document hydrological and vegetative conditions of the created wetland and recommend remedial measure to correct any performance deficiencies. • In lieu of creating compensation wetlands, as approved by the USACE and RWQCB, the Town may purchase mitigation credits from 			monitoring of any created wetlands for at least five years		

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<p>an approved wetland mitigation bank at a 1:1 ratio or as otherwise required by the regulatory agencies at the time permits are issued.</p> <p>Proof of a 404 permit from the USACE and a 401 permit from the RWQCB shall be secured by the Town of Windsor prior to initiating construction activities.</p> <p>Wetlands onsite and in the project vicinity to be preserved shall be protected during construction through Best Management Practices including but not limited to the following:</p> <ul style="list-style-type: none"> • Installing orange construction fencing, silt fencing, hay or gravel wattles prior to initiating work, maintaining fencing/wattles throughout the construction duration, and removing fencing/wattles upon completion. • Presence of a biological monitor onsite to monitor the integrity of preserved wetland and other waters and to provide recommendations to ensure that construction activities do not intrude into protected areas. <p>BIO-4:</p> <p>The Town of Windsor shall secure a Streambed Alteration Agreement (SBAA) from the CDFW</p>					
		Town of Windsor	Prior to construction		

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<p>and implement all measures identified therein including but not limited to the following:</p> <ul style="list-style-type: none"> To avoid fuels, lubricants, soils and other pollutants from entering Starr Creek, wildlife friendly hay wattles and/or silt fencing shall be installed. The use of mulch or any other substitute that may enter into the creek shall be prohibited. Staging, operation and maintenance of heavy-duty construction equipment shall be located away from Starr Creek and well outside of the riparian corridor. <u>Conduct a habitat suitability assessment and pre-construction survey, within 24 hours prior to construction, including all areas where western pond turtles may occur. If pond turtles or their nests are found, prepare a relocation plan, submit it to CDFW for acceptance, and implement. Construction shall avoid all pond turtles and their nests.</u> Temporary wildlife exclusion fencing shall be installed around active work areas within the Starr Creek corridor to prevent wildlife from entering work areas. As soon as construction activities within the Starr Creek 	<p>Install protective measures</p> <p>Onsite observation</p> <p>Secure and implement a SBAA from the CDFW</p> <p><u>Resumes of the qualified biologist shall reflect at least 2 years of experience conducting western pond turtles with detections</u></p>	<p>Project Contractor/ Construction Manager</p> <p>Qualified Biologist</p> <p>Outside Agency (CDFW)</p>	<p>Monitor during regularly scheduled inspections to verify that measures are in place</p> <p>Following project construction</p>		

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<p>corridor are completed all wildlife exclusion fencing shall be removed.</p> <ul style="list-style-type: none"> • To avoid impacts to the riparian corridor of Starr Creek, disturbed areas shall be revegetated with native riparian plant species. Replacement of riparian trees to be removed (oaks) shall be planted near the creek as feasible and/or adjacent to the existing limits of the riparian corridor to contribute to the existing riparian canopy. Riparian plantings shall be maintained for a minimum of 5-years to ensure that the canopy is enhanced and the understory restored. • Non-native and invasive ornamental landscaping shall be precluded from use proximate to Starr Creek. • To avoid debris from entering Starr Creek, the final roadway design shall provide for enclosed and accessible trash receptacles (located outside of the riparian corridor). • New lighting introduced by the project shall be downcast and precluded from spilling over to the riparian corridor. <p>Any further requirements set forth in the Streambed Alteration Agreement (SBAA) from the CDFW, such as specific erosion control</p>					

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measures near the creek <u>or tree replacement ratios within the riparian corridor</u> , shall also be implemented. BIO-5: Implement AES-1 above.					
CULTURAL RESOURCES					
CUL-1: To ensure appropriate treatment of archeological resources in the event of inadvertent discovery the following procedures shall be complied with: <ul style="list-style-type: none"> A professional archaeologist shall conduct a preconstruction meeting with the site superintendent and contractor(s), equipment operator(s) and others prior to commencement of ground-disturbing activities to familiarize the team with the types of archaeological material that could be encountered and procedures to follow in the event that archaeological deposits are uncovered. If archeological deposits are encountered during ground-disturbing activities, all work within 25 feet of the discovery shall be halted until a qualified archaeologist, who meets the Secretary of the Interior's Standards, is retained to inspect the material and provide further recommendations for appropriate 	Incorporate into project design and print on construction documents Conduct a preconstruction meeting with key construction personal On-site observation	Town of Windsor Project Contractor/ Construction Manager Qualified Archaeologist	Prior to ground disturbing activities During ground disturbance activities		

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<p>treatment of the resource including, but not limited to, data recovery excavation, artifact curation, report preparation, and information dissemination to the public. Where such resources are Native American, Tribal representatives shall be notified and appropriate treatment shall be determined in consultation with Native American tribe(s).</p> <ul style="list-style-type: none"> Upon completion of an assessment and/or evaluation of a potential artifact, the archaeologist shall prepare a report documenting the methods and results of the archaeological assessment/evaluation and provide recommendations for the treatment of the find. The report shall be submitted to the Town of Windsor, the Northwest Information Center, and Native American Tribe(s), as appropriate. <p>CUL-2:</p> <p>Consistent with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98, if human remains are encountered, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. The remains shall be left in place and free from disturbance until a final decision as to the</p>	<p>Incorporate into project design and print on construction documents (grading plans). On-site observation</p>	<p>Town of Windsor Project Contractor Construction Manager Qualified Archeologist</p>	<p>Prior to ground disturbing activities During ground disturbance activities</p>		

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treatment and disposition has been made. If the Coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted within 24 hours. The Native American Heritage Commission must then immediately identify the "most likely descendant(s)" of receiving notification of the discovery. The most likely descendant(s) shall then make recommendations within 48 hours and engage in consultations concerning the treatment of the remains.		Native American Heritage Commission Most Likely Descendent(s) County Coroner			
GEOLOGY AND SOILS					
GEO-1: A project-specific design level geotechnical investigation for the Jaguar Way Extension project shall be prepared and recommendations therein implemented. The investigation shall include an analysis of expected ground motions at the site from known faults, liquefaction areas, and expansive soils and identify potentially hazardous geological conditions. The expected ground motions shall be used to develop soil preparation (i.e. need for imported fill, compaction requirements, etc.) and improvements including utility connections, bridge design, and paved surfaces (roadways, sidewalks, driveways, etc.), and shall meet or	Incorporate into project design and print on construction documents	Town of Windsor Town Engineer Project Contractor Construction Manager Geotechnical Consultant	Verification of incorporation into project design and construction documents prior to grading Monitor during construction to verify that measures are in place		

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<p>exceed geotechnical standard practices and the California Building Code. The investigation shall be reviewed and accepted by the Town engineer and all recommendations shall be included in the final project design at the discretion of the Town engineer. Recommendations that are applicable to earthwork and site preparation shall be consistent with the most recent version of the California building Code.</p> <p>GEO-2:</p> <p>If paleontological resources are identified during ground-disturbing construction activities, all work within 50 feet of the discovery shall be halted and a qualified paleontologist contacted to evaluate the finds and make recommendations. If the qualified paleontologist determines that the materials are not significant, no further protection is necessary. If such paleontological resources are found to be significant, they should be avoided by project activities. If avoidance is not feasible, adverse effects to such paleontological resources should be mitigated consistent with a mitigation monitoring program prepared by a qualified paleontologist</p> <p>Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large</p>	<p>Incorporate into project design and print on construction documents (grading plans)</p> <p>On-site observation</p>	<p>Town of Windsor Project Contractor/ Construction Manager Qualified Paleontologist</p>	<p>Periodically during ground disturbance activities</p>		

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<p>mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist should have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. Work may continue outside of a buffer zone around the fossil, usually 50-100 feet (specific distance may be determined by the project paleontologist).</p> <p>Once salvaged, significant fossils should be identified to the lowest possible taxonomic level, prepared to a curation ready condition and curated in a scientific institution with a permanent paleontological collection (such as the University of California Museum of Paleontology), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the project paleontologist.</p> <p>Upon completion of ground disturbing activity (and curation of fossils if necessary) the qualified paleontologist shall prepare a final mitigation and monitoring report outlining the results of the mitigation and monitoring program. The report shall include discussion of the location, duration and methods of the monitoring, stratigraphic sections, any</p>					

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recovered fossils, and the scientific significance of those fossils, and where fossils were curated.					
HYDROLOGY AND WATER QUALITY					
<p>HYDRO-1:</p> <p>In accordance with the National Pollution Discharge Elimination System regulation, the Town shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) prior to construction. The SWPPP shall address erosion and sediment controls, proper storage of fuels, temporary erosion control including fiber rolls, staked straw bales, geofabric, and sandbag, and identification for use and cleanup of hazardous materials. Sediment shall be retained onsite by a system of sediment basins, traps, or other appropriate measures. A Notice of Intent, fees, and other required documentation shall be filed with the Regional Water Quality Control Board. During construction a monitoring report shall be conducted weekly during dry conditions and three times a day during storms that produce more than 1/2" of precipitation.</p> <p>HYDRO-2</p> <p>Prior to approval of public improvement plans, the Town Engineer shall review and authorize the Jaguar Way Extension Project Storm Water Management Plan including adequacy all LID</p>	<p>Incorporate into project design and print on construction documents</p> <p>On-site observation</p> <p>Prepare Construction Monitoring Report that documents periodic site inspections during grading to ensure measures are in place</p>	<p>Town of Windsor</p> <p>Town Engineer</p> <p>Project Contractor/</p> <p>Construction Manager</p>	<p>Prior to construction</p> <p>Periodically during project construction</p>		
	Incorporate into project design and print on	Town of Windsor Town Engineer	Periodic site inspections during grading to ensure		

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features and onsite bio-retention features to ensure that their location, sizing and function adequately accommodates stormwater runoff, and provides pre-treatment and discharge in a manner consistent with local, regional and state requirements.	construction documents On-Site Observation	Project Contractor/ Construction Manager	measures are in place		
NOISE					
NOI-1. The Town of Windsor shall implement the following best management practices during all stages of construction for the Jaguar Way Extension Project as feasible: <ul style="list-style-type: none"> • Construction activities for all phases of construction, including servicing of construction equipment shall only be permitted during the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and between 8:00 a.m. and 7:00 p.m. on Saturdays. No construction shall be permitted on Sundays unless otherwise authorized by the Town Building Official. • Limit noise-producing signals, including horns, whistles, alarms, and bells to safety warning purposes only. • Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for 	Incorporate measures into project design and print on construction documents Assign a disturbance coordinator to respond to complaints and address noise concerns as they arise On-site observation	Town of Windsor Project Contractor/ Construction Manager Noise Disturbance Coordinator	Periodically monitor during construction to verify that measures are in place		

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<p>the equipment (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).</p> <ul style="list-style-type: none"> • Unnecessary idling of internal combustion engines shall be strictly prohibited. • Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors as feasible. If stationary equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure, openings, or venting shall face away from sensitive receptors. • Utilize "quiet" air compressors and other stationary noise sources where technology exists. • Construction staging areas shall be established at location that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. 					

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<ul style="list-style-type: none"> • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile. • Consider the use of "acoustical blankets" during pile driving activities. • The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent land uses including residents abutting the project site, Windsor High School and Keiser Park, so that construction activities can be scheduled to minimize noise disturbance. • Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice 					

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<p>sent to neighbors regarding the construction schedule.</p> <p>NOI-2.</p> <p>The Town of Windsor shall implement the following to protect existing structures and occupants from exposure to excessive groundborne vibration within 20 feet of roadway construction.</p> <ol style="list-style-type: none"> 1. Place operating equipment on the construction site as far as possible from vibration sensitive receptors. 2. Use smaller equipment to reduce vibration levels below the limits (0.3 inches/second PPV). 3. Avoid using vibratory rollers and tampers within 10 feet of sensitive structures. 4. Select demolition methods not involving impact tools. 5. Modify/design or identify alternative construction methods to reduce vibration levels below the limits. 6. Avoid dropping heavy objects or materials. 7. A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, 	<p>Incorporate into project design and print on construction documents</p> <p>Implement Construction Vibration-Monitoring Plan developed by a licensed Professional Structural Engineer</p> <p>Assign an excessive vibration contact</p>	<p>Town of Windsor</p> <p>Project Contractor/ Construction Manager</p> <p>Professional Structural Engineer</p>	<p>Prior to construction</p> <p>Periodically during project construction</p> <p>Upon Project completion</p>		

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<p>vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the Town by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.</p> <p>8. A construction vibration-monitoring plan shall be implemented to document structural conditions at all structures located within 20 feet of non-pile driving activities and any structures located within 100 feet of pile driving prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:</p> <p>a) Performance of a photo survey, elevation survey, and crack monitoring survey for all structures located within 20 feet of non-pile driving activities and any structures located within 100 feet of pile driving. These surveys shall be performed prior to, in regular intervals during, and after completion of</p>					

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<p>vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure.</p> <p>b) Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.</p> <p>c) The results of the surveys shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule to have potential vibration impacts. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify any vibration-monitoring locations.</p> <p>d) Designate a person responsible for registering and investigating claims of excessive vibration. The contact information</p>					

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of such person shall be clearly posted on the construction site.					
TRANSPORTATION					
<p>TRANSP-1</p> <p>The final design of Jaguar Way Extension shall ensure that sight lines are preserved by locating new trees, lighting, landscaping and signage in a manner that does not block sight lines and includes an ongoing maintenance plan for street trees and vegetation so that new growth does not obstruct visibility or conflict with pedestrian, bicycle and vehicles travel.</p>	Incorporate into project design and print on construction documents	Town of Windsor Project Contractor/ Construction Manager Qualified Landscape Specialist	<p>Verification of prior to start of work</p> <p>Verification upon project completion</p> <p>Ongoing maintenance for the life of the project</p>		
<p>TRANSP-2</p> <p>The contractor shall prepare and implement a construction work schedule including material delivery, construction start and end times, road closure and lane closure information and shall be coordinated with Windsor High School to avoid conflicts with school start and release times and school related events. The construction schedule shall also include coordination with other nearby construction activities to minimize conflicts on roadways.</p>	Incorporate into project design and print on construction documents	Town of Windsor Project Contractor/ Construction Manager Windsor High School	<p>Verification of incorporation into design prior to start date of construction</p> <p>Ongoing throughout construction</p>		
TRIBAL CULTURAL RESOURCES					

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<p>TCR-1</p> <p>Prior to the start of construction activities, the Town of Windsor shall coordinate with the Federated Indians of Graton Rancheria (FIGR) to establish a schedule and process to carry out spot monitoring to be performed by a FIGR Tribal Representative during project-related earth-disturbing activities. A schedule for onsite spot monitoring shall be established in close coordination with FIGR, the construction contractor, and the Town of Windsor. The Tribal Representative carrying out spot monitoring shall be permitted to access the construction site, observe activities, and shall be granted authority to issue a stop work order in the event that a tribal cultural resource or potential tribal cultural resource is identified. If tribal cultural materials are encountered during project activities, all work within 25 feet of the discovery, or other appropriate buffer, shall be halted and construction work redirected until materials are assessed and recommendations for treatment are issued. If the tribal cultural materials are archaeological in nature, then a qualified professional archaeologist shall be retained to inspect the discovery and provide recommendations as needed.</p>	<p>Incorporate into project design and print on construction documents</p> <p>On-site observation</p> <p>Implement a 25-foot buffer, as applicable</p> <p><u>Lytton Tribal Representative shall be notified of any find</u></p>	<p>Town of Windsor</p> <p>Project Applicant/ Contractor</p> <p>Qualified Professional Archeologist</p> <p>FIGR</p> <p>FIGR Tribal Representative</p>	<p>Prior to commencement of ground disturbing activities</p> <p>During ground disturbance activities</p>		
<p>TCR-2</p>					

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In the event that prehistoric, historic, or any other cultural or archaeological materials are encountered, the Tribal Heritage Preservation Officer (THPO) of the Federated Indians of Graton Rancheria, <u>Lytton Rancheria</u> , Dry Creek Rancheria Band of Pomo Indians, Middletown Rancheria, or any other tribe that has requested notification, shall be notified of the find.	Incorporate into project design and print on construction documents On-site observation	Town of Windsor Project Contractor/ Construction Manager	Prior to commencement of ground disturbing activities During ground disturbance activities		