

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
January 23, 2024

WHEREAS, the County of Orange (“County”) Board of Supervisors adopted and implemented the Southern Subregion Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan (“Southern NCCP/MSAA/HCP”) on October 24, 2006 by adopting County Resolution No. 06-202; and

WHEREAS, on January 10, 2007, the County Board of Supervisors officially entered into an implementation agreement (“Implementation Agreement”) with various landowners and governmental agencies to implement the terms of the Southern NCCP/MSAA/HCP; and

WHEREAS, a Memorandum of Implementation Agreement designating various property enrolled into and subject to the terms, conditions, and restrictions of the Southern NCCP/MSAA/HCP reserve of properties (“Reserve”) was approved by the County Board of Supervisors on April 19, 2011 and recorded into the official records for Orange County on April 21, 2011 as Instrument No. 2011000203732 by the Orange County Clerk-Recorder; and

WHEREAS, the County and City of Mission Viejo (“City”) have agreed to a property exchange to assist the City with its desire to expand of Lower Curtis Park facility; and

WHEREAS, property being transferred by the County to the City (“City’s Final Property”) is currently enrolled in the Reserve; and

WHEREAS, property being transferred by the City to the County (“County’s Final Property”) is currently not enrolled in the Reserve; and

WHEREAS, the County and City intend to enroll the County’s Final Property into the Reserve and to remove the City’s Final Property from the Reserve; and

WHEREAS, the United States Fish and Wildlife Service (“USFWS”) serves as the administrative entity overseeing compliance with the Southern NCCP/MSAA/HCP and the USFWS has reviewed and approved a minor amendment to the Reserve that sets forth the enrollment of the County’s Final Property into the Reserve and removal of the City’s Final Property from the Reserve as set forth in a letter from USFWS dated July 3, 2023 and attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the enrollment of the County’s Final Property into the Reserve and the removal of the City’s Final Property from the Reserve is reflected in the amended Memorandum of Implementation Agreement (“Amended Memorandum of Implementation Agreement”) attached hereto as Exhibit B and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Approve the enrollment of the County's Final Property into the Reserve and the removal of the City's Final Property from the Reserve and adopt the Amended Memorandum of Implementation Agreement to the Southern NCCP/MSAA/HCP as attached hereto.

EXHIBIT A



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer to:
23-0099757_HCP-AMD_OR

July 3, 2023
Sent Electronically

Brian Kurnow
Interim Planning and Design Division Manager
Orange County Parks
13042 Old Myford Road
Irvine, California 92602

Mark Chagnon
Director of Public Works
City of Mission Viejo
200 Civic Center
Mission Viejo, CA 92691

Subject: Minor Amendment to the Orange County Southern Subregion Habitat Conservation Plan for the Lower Curtis Park Expansion Project, Orange County, California

Dear Brian Kurnow and Mark Chagnon:

This letter is in response to the June 27, 2023, request from the County of Orange (County) for a Minor Amendment to remove a 13.84-acre parcel from the Orange County Southern Subregion Habitat Conservation Plan (HCP) Habitat Reserve (Reserve), and add a 13.88-acre parcel, a 1.54-acre parcel, and a 2.16-acre parcel to the Reserve to accommodate the Lower Curtis Park Expansion Project (project). We received the final version of the proposed minor amendment on April 21, 2023 (GLA 2023).

Project Description

The project proposes to expand the existing Robert A. Curtis Park in the City of Mission Viejo (City) to cover an additional 40.26 acres by creating a graded pad below the existing park site to accommodate additional sports fields and/or general use areas. The 40.26-acre expansion area currently consists of 26.42 acres of City-owned lands and 13.84 acres of County-owned Reserve lands (Figure 1). The project will also include an access road, drainage improvements, a water quality basin, and temporary landscaping to protect slope areas and prevent erosion. Final design of Lower Curtis Park, including proposed regulation-sized ballfields has not yet been completed.

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

2

Changes to the Reserve

The Implementation Agreement (Section 15.4, p. 72) for the HCP provides the following guidance regarding minor amendments: "Minor amendments include, but are not limited to, combinations of adding and removing land from the Habitat Reserve which result in no net loss of Habitat Reserve acreage and no long-term net loss of subregional habitat value." The proposed minor amendment will result in removal of 13.84 acres of County-owned land from the Reserve that will be incorporated into the project footprint. The 13.84-acre County-owned parcel is located in Arroyo Trabuco and consists of about 0.43 acres of native upland scrub, 0.22 acres of native grassland, 0.35 acres of riparian scrub, 0.12 acres of oak woodland, and 12.72 acres of non-native vegetation. The project site, including the County-owned parcel, is known to support dispersal of Covered Species under the HCP, including the coastal California gnatcatcher (*Poliophtila californica californica*, gnatcatcher), but protocol surveys did not detect any gnatcatcher nesting.

To offset the removal of the 13.84-acre parcel, the City will add a 13.88-acre parcel (Northerly Parcel), a 1.54-acre parcel (Site C Mixed Riparian Parcel), and a 2.16-acre parcel (Site C Coastal Sage Scrub Parcel) to the Reserve (17.58 acres total). The Northerly Parcel is a linear strip of land located north of the project site and adjacent to the existing Reserve (Figure 2). It consists of 10.81 acres of coastal sage scrub that supports gnatcatcher, 2.88 acres of oak woodland, and 0.19 acres of non-native vegetation. The Site C Mixed Riparian Parcel includes 1.11 acres of riparian habitat in Arroyo Trabuco south of the project site. About 0.19 acres of pampas grass will be restored to arroyo willow and mulefat at the Site C Mixed Riparian Parcel (Figure 3). The least Bell's vireo (*Vireo bellii pusillus*, vireo), which is a Covered Species under the HCP, has been detected in the vicinity of the Site C Mixed Riparian Parcel. The Site C Coastal Sage Scrub Parcel is located on the southwest end of Arroyo Trabuco and consists of 1.9 acres of coastal sage scrub, 0.09 acre of sycamore woodland, and 0.17 acres of non-native vegetation (Figure 4). Gnatcatchers have been detected in the vicinity of the Site C Coastal Sage Scrub Parcel (GLA 2023).

Overall, the proposed minor amendment will result in the loss of 1.12 acres of native habitat and 12.72 acres of non-native/disturbed habitat from the Reserve. Additions to the Reserve include 17.01 acres of native habitat and 0.57 acre of non-native/disturbed habitat. The net changes to the Reserve will result in the addition of 15.89 acres of native habitat and removal of 12.15 acres of non-native/disturbed habitat. The total change to the Reserve size will be an increase of 3.74 acres (Table 1).

This portion of the Reserve in Arroyo Trabuco serves mainly as a wildlife corridor between the Reserve to the northeast and open space to the south and west in the Cities of San Clemente and San Juan Capistrano. Removal of the 13.88-acre County parcel from the Reserve will make the corridor slightly more constricted in the vicinity of the project, but the addition of the Northerly Parcel and the two Site C Parcels will protect these areas from future development and conserve the integrity of the Reserve corridor on the north and south ends of Arroyo Trabuco.

EXHIBIT A

Table 1. Proposed changes to the Reserve by habitat type.

Habitat type	Removed from Reserve	Added to Reserve	Net Change to Reserve
Coastal sage scrub	0.43	12.74	+12.31
Native grassland	0.22	0	-0.22
Oak woodland	0.12	2.88	+2.76
Riparian scrub/forest	0.35	1.3*	+0.95
Sycamore woodland	0	0.09	+0.09
Non-native vegetation	12.38	0.34	-12.04
Disturbed/Developed	0.34	0.23	-0.11
Total	13.84	17.58	+3.74

*Includes 0.19 acre of pampas grass that will be restored to riparian scrub.

Additional City Commitments

In addition to the Reserve additions summarized above, the City proposes to protect 11.66 acres of City-owned land as open space adjacent to the Reserve with a deed restriction or similar protective instrument (Figure 5). The 11.66-acre parcel consists of mostly non-native vegetation, but also supports coyote bush scrub, mulefat scrub, and riparian scrub. This parcel is situated just north of the project site and south of the Northerly Parcel and will serve as a buffer between existing development (Beebe Park) and the Reserve. This parcel will also contribute to the preservation of the existing wildlife corridor along Arroyo Trabuco. The City will provide a draft deed restriction or other protective instrument to the Carlsbad Fish and Wildlife Office (CFWO) for review and approval. Prior to construction of new park facilities, the City will record the CFWO-approved deed restriction or other protective instrument and provide a final copy to the CFWO. The City will also plant about 5 acres of coastal sage scrub on the Reserve-facing slopes of the project footprint, which will help maintain and enhance wildlife movement through Arroyo Trabuco. The City will provide a draft coastal sage scrub planting, monitoring, and maintenance plan to the CFWO for review and approval prior to construction of new park facilities.

It is not yet known if the ballfields in the expanded park area will require night-lighting. If there is a need for lighting, the City will provide draft lighting plans for the expanded park that minimize the impacts of artificial lighting in the Reserve to the CFWO for review and approval prior to construction of new park facilities. The City will also design trash receptacles for the expanded park area in a way that prevents wildlife from accessing trash. Trash receptacle designs will be submitted to the CFWO for review prior to construction of new park facilities.

Suitable breeding habitat for vireo and gnatcatcher is limited in the vicinity of the project footprint, and noise impacts to nesting vireos and gnatcatchers from construction are unlikely to

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

4

occur. However, if any construction will occur within 300 feet of suitable vireo or gnatcatcher habitat during the breeding season for each species (March 15 to September 15 for vireo and February 15 to August 31 for the gnatcatcher), a qualified biologist¹ will conduct pre-construction surveys for vireo and/or gnatcatcher prior to initiating construction. If nesting vireos or gnatcatchers are detected within 300 feet of the project footprint, the City will contact the CFWO to determine appropriate avoidance and minimization measures.

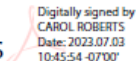
Because the City has an ongoing source of incoming fill, the County has agreed to allow the City to begin placing fill on the County's 13.84-acre parcel before the land swap is finalized, if necessary. The County will issue a license to the City allowing access to the County parcel with the understanding that the land swap will proceed as documents are finalized and recorded. The County and/or City will provide the signed license to the CFWO prior to proceeding with impacts to the County parcel and Reserve. If the land swap does not proceed following City impacts to the Reserve, the City has committed to remove any fill and restore the parcel to existing conditions as mapped in the proposed minor amendment.

Conclusion

We believe that the proposed project qualifies as a minor amendment to the HCP because the amendment: 1) will result in a net increase in the size of the Reserve by 3.74 acres; 2) will result in a net increase in the amount of native habitat supporting Covered Species in the Reserve, including coastal sage scrub, oak woodland, and riparian habitat by 15.89 acres; 3) will protect an additional 11.66 acres of City-owned land adjacent to the Reserve; (4) will plant 5 acres of coastal sage scrub and implement other minimization measures during construction of the expanded park project to minimize disturbance to wildlife and degradation to the adjacent Reserve; and (5) will not negatively impact connectivity within the Reserve.

Based on the consistency of this project with the guidelines for minor amendments, we concur with the approval of this proposal as a minor amendment. We thank you for the opportunity to comment on this proposal and your efforts to ensure that the proposed amendment will be a net benefit to the Reserve. Should you have any questions, please contact [Lauren Kershek](mailto:Lauren.Kershek@fws.gov)² of this office at 760-431-9440, extension 208.

Sincerely,

CAROL ROBERTS  Digitally signed by
CAROL ROBERTS
Date: 2023.07.03
10:45:54 -0700

for Jonathan D. Snyder
Assistant Field Supervisor

¹ The qualified biologist will be a trained ornithologist with at least 40 hours of independent gnatcatcher and vireo observation in the field and documented experience of at least 20 hours of locating and monitoring gnatcatcher and vireo nests. If necessary, more than one biologist may be used.

² lauren_kershek@fws.gov

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

5

Literature Cited

[GLA] Glenn Lukos Associates, Inc. 2023. Draft County of Orange Southern Subregion Habitat Conservation Plan Boundary Minor Amendment for the Lower Curtis Park Expansion, Mission Viejo, California. Prepared for the City of Mission Viejo. April.

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

6



Figure 1. Project site (black outline) and County-owned 13.84-acre Reserve parcel that will be removed from the Reserve (yellow-dotted line) (GLA 2023).

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

7



Figure 2. The 13.88-acre Northerly parcel that will be added to the Reserve to the north of project site (GLA 2023).

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

8



Figure 3. The 1.54-acre Site C Mixed Riparian Parcel that will be added to the Reserve to the south of the project site (GLA 2023).

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

9



Figure 4. The 2.16-acre Site C Coastal Sage Scrub Parcel that will be added to the Reserve to the south of the project site (GLS 2023).

EXHIBIT A

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

10



Figure 5. The 11.66-acre parcel that will be protected from development by the City north of the project site (GLA 2023).

EXHIBIT B

**COUNTY OF ORANGE
SOUTHERN SUBREGION
HABITAT CONSERVATION PLAN
BOUNDARY MINOR AMENDMENT**

FOR

**THE LOWER CURTIS PARK EXPANSION
MISSION VIEJO, CALIFORNIA**

April 2023

Prepared for:

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EXHIBIT B

TABLE OF CONTENTS

1.0 AUTHORITY1
2.0 PURPOSE1
3.0 SUMMARY1
4.0 VEGETATION MAPPING AND SURVEYS3
5.0 ADDITION TO THE RESERVE4
6.0 IMPACTS TO TARGET AND IDENTIFIED SPECIES6
7.0 EFFECTS ON COVERED HABITATS7
8.0 EFFECTS ON TARGET AND IDENTIFIED SPECIES7
9.0 NET IMPACT ON THE SIZE OF THE RESERVE8
10.0 NET CHANGE IN CONSERVATION VALUE OF COVERED HABITAT8
11.0 EFFECTS ON BIOLOGICAL CONNECTIVITY8
12.0 IMPACT ON THE RESERVE CONFIGURATION9
13.0 LAND MANAGEMENT9

TABLES

Table 1. Summary of Vegetation on 13.84-Acre Deleted Parcel4
Table 2. Summary of Vegetation to be Added to Reserve5
Table 3. Net Change by Acreage for Covered Habitat Types8

EXHIBITS

Exhibit 1 Regional Map
Exhibit 2 Vicinity Map
Exhibit 3 13.84-Acre County to City Parcel
Exhibit 4 11.66-Acre City Protected Parcel
Exhibit 5 13.88-Acre City to County Parcel
Exhibit 6 1.54-Acre City to County Parcel
Exhibit 7 2.16-Acre City to County Parcel

EXHIBIT B

1. AUTHORITY

The City of Mission Viejo has requested the County of Orange, in coordination with the U.S. Fish and Wildlife Service (USFWS) to amend the boundaries of the County of Orange Southern Subregion Habitat Conservation Plan (SSHCP) Habitat Reserve (Reserve) through a Minor Amendment. This proposed Minor Amendment is consistent with the Implementing Agreement (Section 15.4, page 72) of the HCP, which states that “minor amendments include, but are not limited to, combinations of adding and removing land from the Habitat Reserve which result in no net loss of Habitat Reserve Acreage and no long-term net loss of subregional habitat value.”

This proposed Minor Amendment conforms to the guidance established in the IA (i.e., no net loss of Reserve acreage and no net loss of subregional habitat value over the long term) and is considered by the City of Mission Viejo, through the Final Environmental Impact Report (FEIR) to be mitigated to a level that is less than significant.

2. PURPOSE

The purpose of the proposed Minor Amendment is to remove a portion of the Reserve adjacent to the existing Robert A. Curtis Park (the Deleted Parcel) to allow for expansion of Robert A. Curtis Park. Replacement land would occur in nearby parcels within the Arroyo Trabuco (the Added Parcels) that would be incorporated into the Reserve consistent with the requirements of the Criteria. The following benefits would be achieved through the Minor Amendment that would enhance the long-term conservation value of the Reserve:

- A net increase of coastal sage scrub (CSS) habitat which is occupied by the coastal California gnatcatcher.
- A net increase of riparian habitat potentially occupied by least Bell's vireo
- A net addition of high conservation value land.
- A net addition of land area to the Reserve.

3. SUMMARY

The City of Mission Viejo is proposing to expand Curtis Park, which is located adjacent to the Arroyo Trabuco [Exhibits 1 and 2]. The park expansion would cover 40.26 acres, of which 26.42 acres are City owned and 13.84 acres are County owned and part of the SSHCP Habitat Reserve. Added and Deleted Parcels are within the Arroyo Trabuco and are depicted on Exhibits 3, 5, 6, and 7. Exhibit 4 depicts 11.66 acres that the City will protect through a deed restriction or similar instrument.

The proposed project will provide for the future expansion of Curtis Park by creating a rough-graded super-pad below the existing park site to accommodate additional sports fields and/or general use areas. It will include a rough-graded access road, drainage improvements and temporary landscaping to protect slope areas and prevent erosion.

As previously stated, the Project site covers approximately 40.26 acres. The Project site is in the City of Mission Viejo (Exhibit 1) to the east of Olympiad Road, Felipe Road, and Robert A.

EXHIBIT B

Curtis Park, north of Water Tank Road, west of Trabuco Creek Road, and south of Escatron Street (Exhibit 2). Site topography ranges from gently to steeply sloping, with elevations ranging from approximately 619 feet to 782 feet above mean sea level (MSL). Vegetation communities found on site consist of mostly non-native cover types such as mustard fields, non-native grasslands, artichoke thistle fields and ornamental vegetation, with limited areas of coyote brush scrub, coast goldenbush scrub and purple needlegrass grassland. The site also includes a few scattered coast live oaks (*Quercus agrifolia*). Surrounding land uses include undeveloped land to the south, east, and north, and residential development to the west.

4. VEGETATION MAPPING AND SURVEYS

GLA biologists conducted vegetation mapping on June 18, 2020 in accordance with the MCV II for the entire 40.26 acres. Table 1 summarizes the vegetation descriptions for the areas within the 13.84 acres that will be transferred from the County and Habitat Reserve to the City (Deleted Parcel) for incorporation into the expanded park. A vegetation map of the parcel that will be transferred from the County and Habitat Reserve to the City is provided as Exhibit 3.

The vegetation alliances on the Deleted parcel are described below. The 13.84-acre parcel supports very limited native habitat as described below with 89-percent of the vegetation cover consisting of non-native black mustard with and understory of non-native grasses such as wild oats, ripgut brome and hare barley. Focused surveys did not detect the coastal California gnatcatcher within the 13.84-acre parcel.

***Baccharis pilularis* SHRUBLAND ALLIANCE – COYOTE BRUSH SCRUB**

Coyote brush (*Baccharis pilularis*) scrub accounts for approximately 0.39 acre throughout the 13.84-acre parcel. In these areas, coyote brush covers over 50 percent of the shrub layer; however, other occurring species include pampas grass and summer mustard. This vegetation cover is part of the *Baccharis pilularis* Shrubland Alliance which has a G5 S5 rarity ranking. This rarity ranking is defined as secure in both its global and California range.

***Baccharis salicifolia* SHRUBLAND ALLIANCE – MULEFAT THICKETS**

Primarily in the lower portion of Drainage A, approximately 0.31 acre consists of mulefat (*Baccharis salicifolia*) thickets. According to the MCV II, these areas fit the *Baccharis salicifolia* Shrubland Alliance which has a rarity ranking of G5 S4 which is defined as secure within and outside of California. Other co-occurring species include coyote brush and summer mustard.

***Brassica (nigra)* and Other Mustards SEMI-NATURAL HERBACEOUS STANDS – UPLAND MUSTARDS**

Disturbed areas dominated by invasive, non-native upland mustard species (*Hirschfeldia incana* and *Brassica nigra*) account for approximately 12.35 acres throughout the 13.84-acre parcel and accounting for 89-percent of the vegetative cover in the parcel. These vegetation alliances belong to the *Brassica (nigra)* and Other Mustards Semi-Natural Herbaceous Stands classification in the MCV II.

EXHIBIT B

***Cortaderia (jubata, selloana)* SEMI-NATURAL HERBACEOUS STANDS– PAMPAS GRASS PATCHES**

Approximately 0.03 acre in Drainage A consists of a patch of pampas grass (*Cortaderia selloana*). This highly invasive vegetation cover belongs to the *Cortaderia (jubata, selloana)* Semi-Natural Herbaceous Stands – Pampas grass patches classification in the MCV II.

***Nasella pulchra* HERBACEOUS ALLIANCE – PURPLE NEEDLE GRASS GRASSLAND**

Approximately 0.22 acre immediately south Drainage A consists of areas where purple needle grass exceeds 10-percent cover in the herb layer. Other species in this layer are primarily upland mustard species or non-native grasses and a few native herbs such as golden stars (*Bloomeris crocea*). This vegetation cover meets the membership rules for the *Nasella pulchra* Herbaceous Alliance – Purple needle grass grassland, which has a rarity ranking of G4 S3? which is defined as globally secure, but vulnerable throughout its range at the state level.

***Quercus agrifolia* WOODLAND ALLIANCE – COAST LIVE OAK WOODLAND**

Approximately 0.12 acre within Drainage A consists of areas where coast live oak exceeds 50% relative cover in the tree canopy. Other species in these areas include mulefat, coyote brush, stinging nettle, and cattail. This native vegetation cover is part of the *Quercus agrifolia* Woodland Alliance – Coast live oak woodland, which has a rarity ranking of G5 S4 which is defined as secure within California.

***Rhus integrifolia* SHRUBLAND ALLIANCE – LEMONADE BERRY SCRUB**

Approximately 0.02 acre along the easternmost reach of Drainage A consists of areas where lemonade berry exceeds 50-percent relative cover in the shrub layer. This native vegetation cover is part of the *Rhus integrifolia* Shrubland Alliance – Lemonade berry scrub, which has a rarity ranking of G3 S3 which is defined as vulnerable throughout its range.

***Salix lasiolepis* SHRUBLAND ALLIANCE – ARROYO WILLOW THICKETS**

Approximately 0.04 acre within Drainage A consists of areas where arroyo willow exceeds 50% relative cover or 20-percent absolute cover in the shrub or tree canopy. Other species in these areas include mulefat, coyote brush, and stinging nettle. This native vegetation cover is part of the *Salix lasiolepis* Shrubland Alliance – Arroyo willow thickets, which has a rarity ranking of G4 S4 which is defined as secure throughout its range.

***Sambucus nigra* SHRUBLAND ALLIANCE – BLUE ELDERBERRY STANDS**

Approximately 0.02 acre in Drainage A consists of areas where blue elderberry exceeds 50% cover in the shrub layer. This native vegetation cover is part of the *Sambucus nigra* Shrubland Alliance – Blue elderberry stands, which has a rarity ranking of G3 S3 which is defined as vulnerable throughout its range.

Disturbed Lands

Disturbed lands account for 0.34 acre near the northern property boundary associated with a staging area used by city faculty. These areas are predominantly bare dirt roads with occasional ornamental trees.

EXHIBIT B

Vegetation Type	MCV II	Total (acres)
<i>Baccharis pilularis</i> Shrubland Alliance – Coyote brush scrub	S5	0.39
<i>Baccharis salicifolia</i> Shrubland Alliance – Mulefat thickets	S4	0.31
<i>Brassica (nigra)</i> and Other Mustards Semi-Natural Herbaceous Stands – Upland mustards	NA	12.35
<i>Cortaderia (jubata, selloana)</i> Semi-Natural Herbaceous Stands – Pampas grass patches	NA	0.03
<i>Nasella pulchra</i> Herbaceous Alliance – Purple needle grass grassland	S3?	0.22
<i>Quercus agrifolia</i> Woodland Alliance – Coast live oak woodland	S4	0.12
<i>Rhus integrifolia</i> Shrubland Alliance – Lemonade berry scrub	S3	0.02
<i>Salix lasiolepis</i> Shrubland Alliance – Arroyo willow thickets	S4	0.04
<i>Sambucus nigra</i> Shrubland Alliance – Blue elderberry stands	S3	0.02
Disturbed Areas	NA	0.34
	Total	13.84

5. ADDITION TO RESERVE

The City has identified three locations under City ownership that will be dedicated to the County of Orange for incorporation into the Habitat Reserve, totaling 17.58 acres, of which 12.74 acres of coastal sage scrub, 2.88 acres of coast live oak woodland, 0.09 acre of western sycamore woodland, and 1.08 acre of willow riparian forest. For purposes of this Minor Amendment the parcels are referred to as the Northerly Parcel, Site C Coastal Sage Scrub Parcel. And the Site C Mixed Vegetation Parcel. Each is described below and summarized in Table 2 below.

It is important to note that while the Deleted Parcel is predominately non-native habitat consisting of black mustard accounting for 89-percent of the 13.84 acres, the lands that will be added to the reserve, totaling 17.58 acres supports 16.82 acres of native habitat or 95.6-percent. Thus, the loss of 1.12 acres of native habitat will be replaced with 16.82 acres of native habitat and the loss of 0.39 acre of CSS will be replaced with 12.74 acres of CSS. A brief description of the lands to be added to the Habitat Reserve are provided below and summarized in Table 2.

Northerly Parcel

The Northerly Parcel is north of Curtis Park (Exhibit 5), is somewhat linear in shape and occurs immediately adjacent to the existing Habitat Reserve. The Northerly Parcel covers approximately 13.88 acres and consists largely of coastal California sagebrush (10.81 acres),

EXHIBIT B

coast live oak woodland (2.88 acres), non-native grassland (0.17 acre) and 0.02 acre of earthen trail. GLA identified three coastal California gnatcatcher locations during site reconnaissance and vegetation mapping; however, protocol surveys were not performed.

Table 2: Summary of Vegetation to be Added to Reserve		
Vegetation Type	MCV II	Total (acres)
13.88-Acre Northerly Parcel		
<i>Artemisia californica</i> Shrubland Alliance – California sagebrush scrub	S4	10.81
<i>Quercus agrifolia</i> Woodland Alliance – Coast live oak woodland	S4	2.88
Non-Native Grassland	NA	0.17
Disturbed or Developed	NA	0.02
Subtotal for Northerly Parcel		13.88
2.16-Acre CSS Area		
<i>Artemisia californica</i> Shrubland Alliance – California sagebrush scrub	NA	1.90
<i>Platanus racemosa</i> Woodland – Western Sycamore Woodland	NA	0.09
<i>Brassica (nigra)</i> and Other Mustards Semi-Natural Herbaceous Stands – Upland mustards	NA	0.17
Subtotal for 2.16 Acre CSS Area		2.16
1.54-Acre Site C Mixed Riparian and CSS		
<i>Artemisia californica</i> Shrubland Alliance – California sagebrush scrub	NA	0.01
<i>Cortaderia (jubata, selloana)</i> Semi-Natural Herbaceous Stands – Pampas grass patches	NA	0.19
Mixed Scrub	NA	0.02
<i>Salix lasiolepis</i> Shrubland Alliance – Arroyo willow thickets	S4	1.08
<i>Typha (angustifolia, domingensis, latifolia)</i> Herbaceous Alliance – Cattail marshes	S5	0.03
Trail	NA	0.21
Subtotal for Site C Mixed Riparian and CSS		1.54
Total		17.58

EXHIBIT B

Site C Mixed Riparian and CSS

The Site C Riparian and CSS area covers 1.54 acres and includes areas proposed for habitat restoration, specifically, areas that currently support dense thickets of pampas grass (Exhibit 6). The area also supports 1.08 acre of arroyo willow thickets that have the potential to support least Bell's vireo which were identified during protocol surveys for the project.

Site C Coastal Sage Scrub Area

The Site C Coastal Sage Scrub area is south of Robert A. Curtis Park just west of the Arroyo Trabuco Golf Course (Exhibit 7). The site consists largely of California sagebrush dominated CSS with 0.09 acre of western sycamore and 0.17 acre of black mustard. During work for the Arroyo Trabuco golf course, GLA detected coastal California gnatcatchers in this area, which contains areas of suitable CSS.

6. IMPACTS TO TARGET AND IDENTIFIED SPECIES

Deleted Parcel

As noted above, the Deleted Parcel supports a predominance of non-native mustards and annual grasses and only 0.39-acre of coyote brush scrub CSS. Protocol surveys for the CAGN in 2021 did not detect CAGN on the site or immediately adjacent to the site so there would be no impacts to CAGN. The Biological Technical Report prepared for the project did not identify any other listed or special-status species within the 13.84 acre Deleted Area. Thus, there would be no impacts to listed or other special-status species associated with the transfer of land to the City of Mission Viejo from the Habitat Reserve.

Added Parcels

13.88-Acre Northerly Parcel

As noted above, during site reconnaissance and vegetation mapping for the 13.88-acre Northerly Parcel three occurrences of the CAGN were detected within the 10.81 acres of CSS. Transfer of this land to the Habitat Reserve would result in a net increase in CSS occupied by the CAGN.

1.54-Acre Site C Mixed Riparian and CSS

As noted above, least Bell's vireo was observed within the 1.54-acre parcel that will be transferred to the County from the City. This parcel will be subject to habitat restoration efforts including removal of invasive pampas grass and reestablishment of arroyo willow and mulefat scrub in conjunction with preservation of 1.08-acre of arroyo willow forest, resulting in a net increase of suitable habitat for least Bell's vireo in the Habitat Reserve.

Site C 2.16-Acre CSS Area

As noted above during biological surveys for the Arroyo Trabuco Golf Course, CAGN were observed in the general vicinity of the 2.16-acre CSS area associated with the City's Site C. The area is dominated by California sagebrush CSS and is presumed to be occupied by CAGN.

EXHIBIT B

**CONSISTENCY WITH HABITAT CONSERVATION PLAN
MINOR AMENDMENT CRITERIA**

7. EFFECTS ON COVERED HABITATS

Three “covered habitats” will be affected by the proposed amendment, including CSS, Oak Woodland, and Willow Riparian Woodland. The proposed amendment will result in the loss of 0.39-acre of coyote brush dominated CSS, with a corresponding addition of 12.74 acres of California sagebrush dominated CSS for a net increase of 12.35 acres of CSS habitat. Therefore, the proposed amendment complies with the Criteria for CSS (i.e., no reduction in the acreage of covered habitat).

The proposed amendment will also impact 0.12 acre of coast live oak woodland. The proposed amendment would include the addition of 2.88 acres of coast live oak woodland associated with the Northerly Parcel resulting in a net increase of 2.76 acre of coast live oak woodland within the Habitat Reserve.

The proposed amendment would impact 0.04 acre of arroyo willow riparian habitat and 0.31 acre of mulefat scrub for a total impact of 0.35 acre of riparian habitat. The transfer of land from the City of Mission Viejo to the County for incorporation into the Habitat Reserve would result in the addition of 1.08 acre of arroyo willow riparian habitat for a net increase of 0.73 acre of riparian habitat within the Habitat Reserve.

8. EFFECTS ON TARGET AND IDENTIFIED SPECIES

Based on the survey information for the Robert A. Curtis project, there will be an increase in the number of CAGN (estimated 3 to 4 occurrences) within the Habitat Reserve with adoption of this proposed Minor Amendment. There would also be a net increase of 12.35 acres of CSS in the Habitat Reserve, increasing the overall carrying capacity of the Habitat Reserve for the CAGN. There would be a small increase of riparian habitat within the Habitat Reserve and the potential for one additional occurrence by least Bell’s vireo. Therefore, the Minor Amendment meets the requirement that a Minor Amendment must maintain the number of identified occurrences by target species within the Reserve.

9. NET IMPACT ON THE SIZE OF THE RESERVE

The proposed Minor Amendment would result in a net increase in the size of the Reserve of 3.74 acres. Therefore, the Minor Amendment meets the requirement that a Minor Amendment must maintain or increase the size of the Reserve. It is important to note that when the net change in covered habitats is considered, the difference is a net increase of 15.80 acres, as summarized in Table 3. This is because much of the deleted land exhibits land cover by non-native species such as black mustard stands, which exhibits lower habitat values than the coastal sage scrub, oak woodland, and willow riparian habitat that will replace the non-native land cover types.

EXHIBIT B

Table 3: Net Change by Acreage for Covered Habitat Types			
Covered Habitat Type	Deleted Covered Habitat From Reserve	Added Covered Habitat to Reserve	Net Change Covered Habitat within Reserve
Coastal Sage Scrub	-0.39 acre	12.74 acres	+12.35 acres
Oak Woodland	-0.12 acre	2.88 acres	+2.76 acres
Riparian Habitat	-0.39 acre	1.08 acres	+0.69acre
Total	-0.90 acre	16.70 acres	+15.80 acres

10. NET CHANGE IN CONSERVATION VALUE OF COVERED HABITAT

Table 3 identifies the covered habitats within the Added and Deleted Parcels associated with the proposed Minor Amendment. As noted above, areas of CSS to be added to the Habitat Reserve include three occurrences for the coastal California gnatcatcher and would thus result in a net increase in both suitable habitat and the number of gnatcatchers in the Habitat Reserve. Similarly, there would be a small net increase in riparian habitat suitable for least Bell's vireo and the addition of one occurrence based on protocol surveys in 2021.

In addition to the 13.88-acre parcel to the north of Lower Curtis Park, the City proposes to dedicate as open space, the 11.66 acres between the 13.88-acre parcel that will be added to the Habitat Reserve and Lower Curtis Park. The area would be dedicated through a deed restriction or similar instrument. While the County declined to accept this area for addition to the Habitat Reserve, the area includes Physical and Biological Features (PBFs) typically associated with designated Critical Habitat including PBF-1 such as coyote brush and mulefat scrub and willow forest along with areas consistent with PBF-2, such a black mustard. In addition to the habitat functions provided by this area, the area will also provide buffer functions between areas of existing development and the Habitat Reserve.

11. IMPACT ON BIOLOGICAL CONNECTIVITY

Trabuco Creek is a major drainage course within a north-to-south trending canyon known as the Arroyo Trabuco that drains the foothills of the Santa Ana Mountain and drains to the Pacific Ocean. Within the vicinity of the project site, extending upstream to Santa Margarita Parkway and downstream to Interstate 5, widths of the Arroyo Trabuco, from canyon rim to rim or from other features such as residential development or golf courses, range from over 3,000 feet to approximately 1,500 feet with riparian habitat lining the drainage course that is several hundred feet wide in most areas with coastal sage scrub and grasslands on the adjacent slopes and terraces. The Arroyo Trabuco narrows immediately south of the Arroyo Trabuco Golf Course south of the two Site C dedication areas and is also constrained by Interstate 5 where the Trabuco Creek is conveyed under the freeway by a culverted crossing.

In vicinity of Curtis Park, accounting for the developed portions of the existing park, the Arroyo Trabuco ranges from approximately 2,000 to 2,300 feet wide consisting of a broad riparian canopy ranging between 300 and 600 feet wide. Construction of the park extension will reduce

EXHIBIT B

the width of the undeveloped area from about 2,200 feet in width to approximately 1,600 feet in width, which will then be expanded to about 1,800 feet with restoration of the lower park slopes with coastal sage scrub habitat covering approximately five acres. The addition of five acres of coastal sage scrub on the lower slopes of Lower Curtis Park, will provide enhanced connectivity and live-in/breeding habitat within the Arroyo Trabuco for the coastal California gnatcatcher immediately adjacent to the Habitat Reserve. Thus, following development and restoration on the slopes between the park and the Arroyo Trabuco, the habitat corridor in this area will be approximately 1,800 feet which is typical of widths of the Arroyo Trabuco upstream and downstream of the project site. Given these factors, the proposed Minor Amendment will not negatively impact biological connectivity within the Habitat Reserve.

12. IMPACT ON THE RESERVE CONFIGURATION

The proposed Minor Amendment will not negatively impact the configuration of the Reserve. Specifically, the overall configuration of the Habitat Reserved will be largely unchanged. As noted, The Minor Amendment would increase the overall size of the Habitat Reserve by 3.74 acres with a notable increase of Covered Habitats by 15.80 acres of which 12.35 acres consists of coastal sage scrub, occupied by the coastal California gnatcatcher, increasing the overall carrying capacity of the Reserve for this species.

13. LAND MANAGEMENT

County Responsibilities for Habitat Reserve

The City of Mission Viejo is the current landowner of the Added Parcels. The County of Orange is the current landowner of the Habitat Reserve lands that will be transferred to the City of Mission Viejo from the County of Orange for the park expansion.

The County of Orange currently acts as the land manager for areas within the Arroyo Trabuco, and it is anticipated that the County of Orange will serve as the land manager of the Added Parcels following conveyance to the County of Orange.

City Responsibilities for Areas Outside of Habitat Reserve'

Following the land swap, Lower Curtis Park will be adjacent to the Habitat Reserve as will the 11.66-acre parcel to be dedicated as open space to enhance the biological functions of the Habitat Reserved within the Arroyo Trabuco. The responsibilities of the City of Mission Viejo regarding potential indirect impacts associated with the construction and operation of Lower Curtis Park are addressed below and include potential impacts from noise, lighting, and trash.

Noise Impacts

The area adjacent to Lower Curtis Park support only limited areas of native vegetation that could be used for breeding by the coastal California gnatcatcher or least Bell's vireo. Nevertheless, prior to grading within 300 feet of coastal sage scrub or riparian habitat capable of supporting the

EXHIBIT B

coastal California gnatcatcher or least Bell's vireo a biologist familiar with these species will conduct pre-construction surveys for any grading that is to be conducted during the avian nesting season (February 15 – August 15 for the gnatcatcher and March 15 – August 15 for least Bell's vireo to determine presence/absence within 300 feet of the proposed grading. Should either species be detected within 300 feet, the City will contact USFWS to determine appropriate measures to ensure that no take of federally listed species occurs during construction.

Lighting

Final design of Lower Curtis Park including the proposed regulation-sized ballfields has not been completed. Thus, lighting plants have not been completed and the potential for night lighting for the ball fields has not been determined. Prior to construction of the ball fields, the City of Mission Viejo will submit to USFWS lighting plans for the park. If night lighting for the ball fields is included in the final design Lower Curtis Park, the City shall submit the plans to USFWS with an analysis of the potential impacts of the lighting of the Habitat Reserve by a qualified biologist.

Trash

Prior to opening of Lower Curtis Park, the City of Mission Viejo will submit to USFWS for review, the design of trash receptacles that would include design features that would prevent wildlife from accessing the trash.

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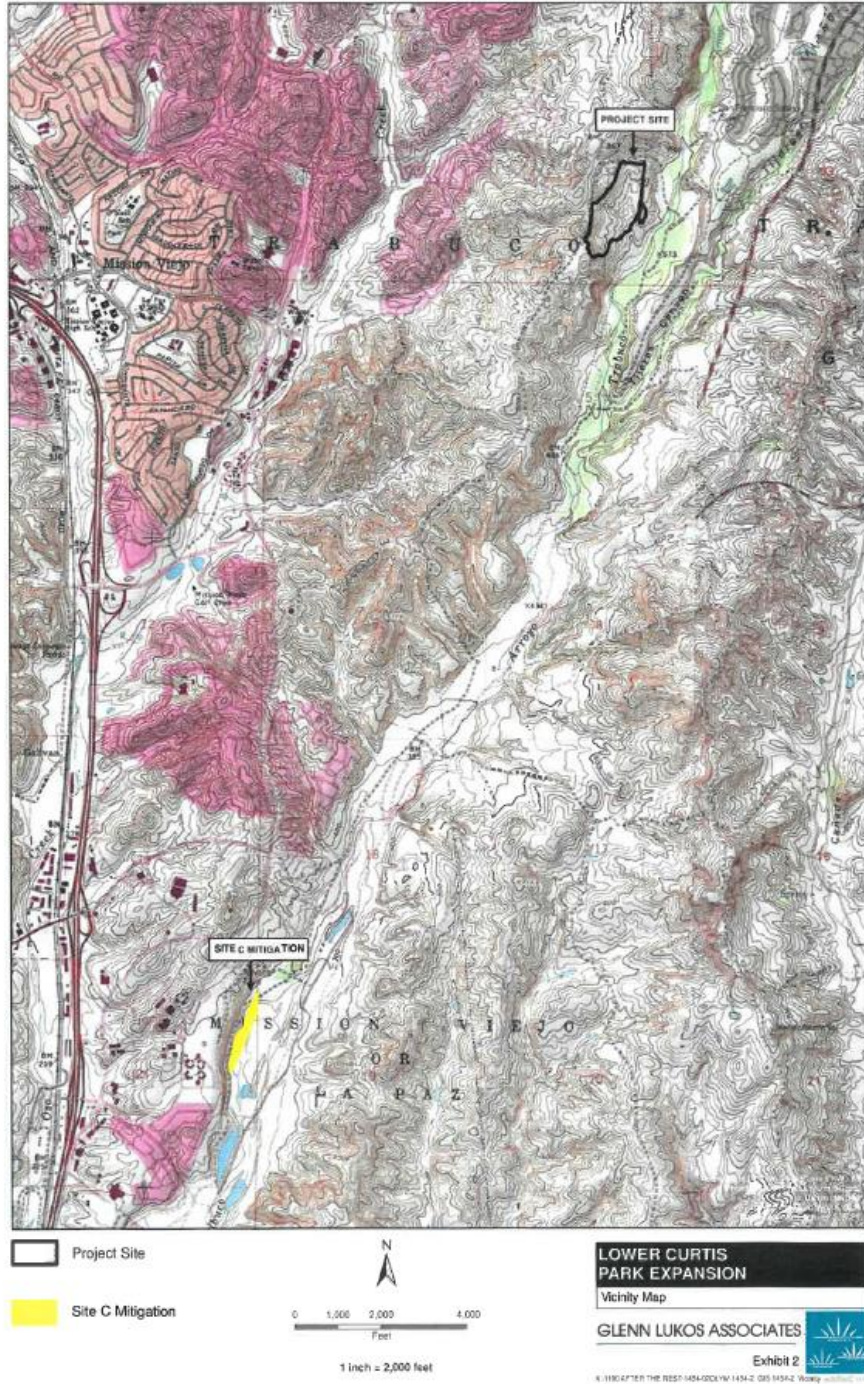


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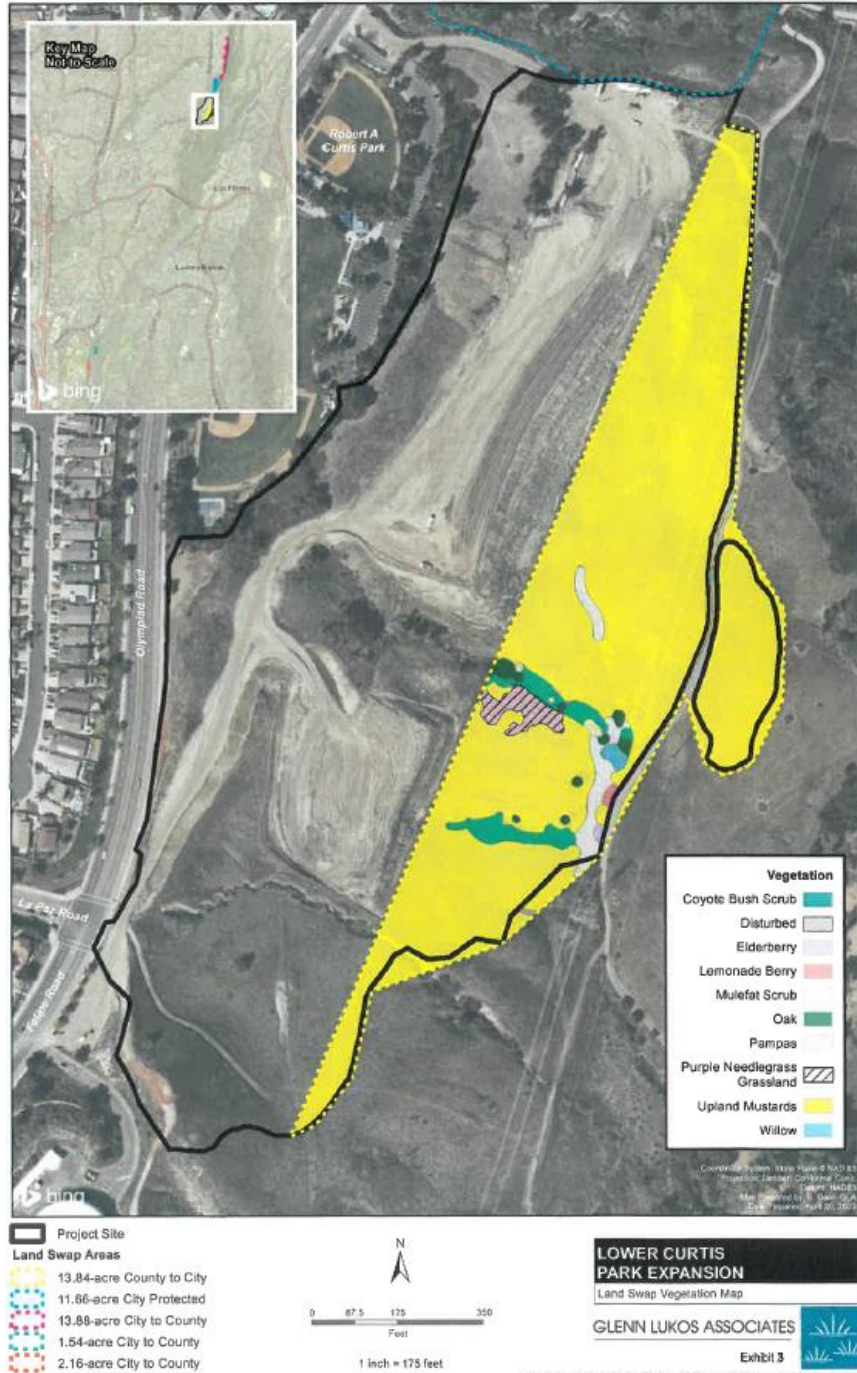


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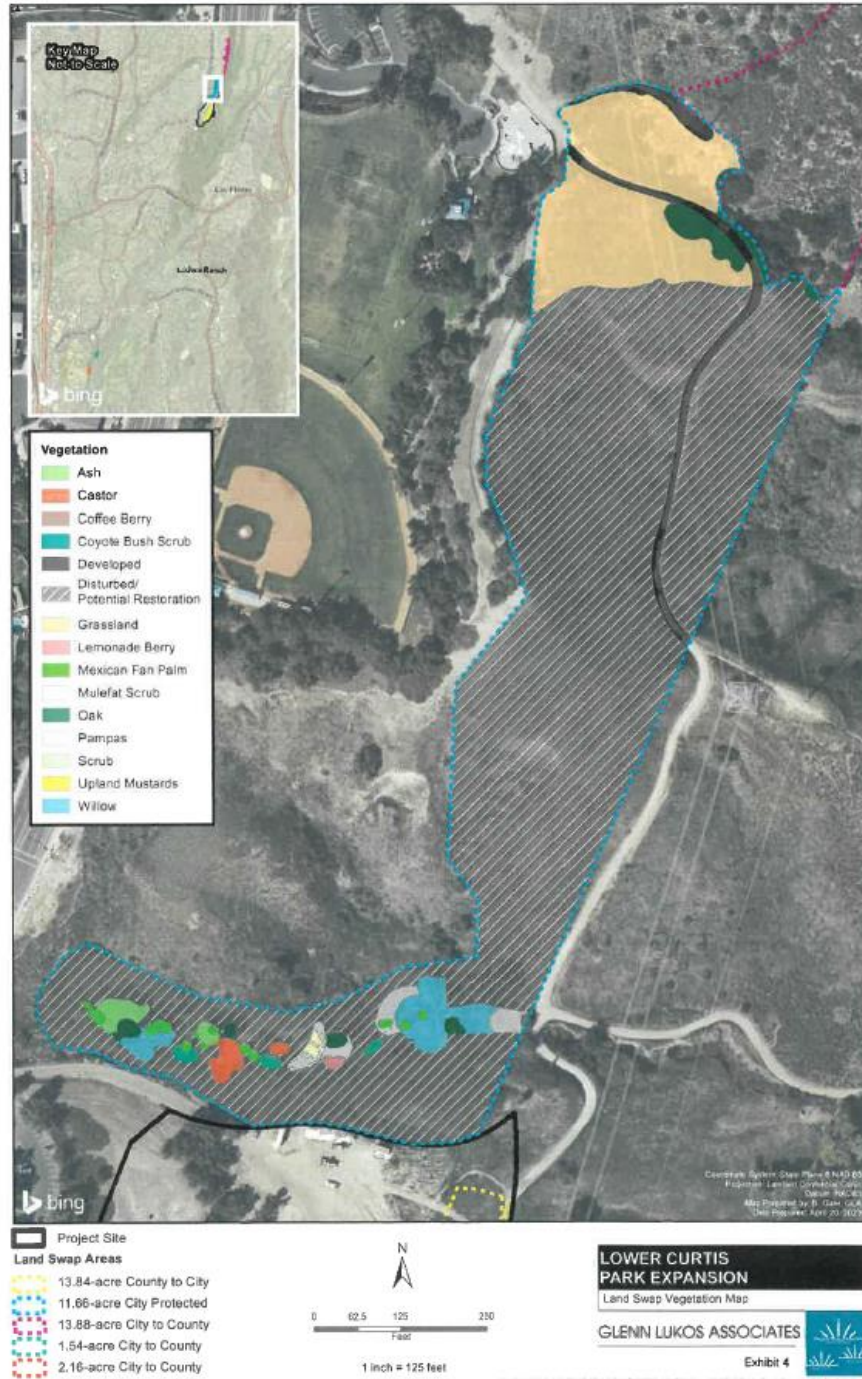


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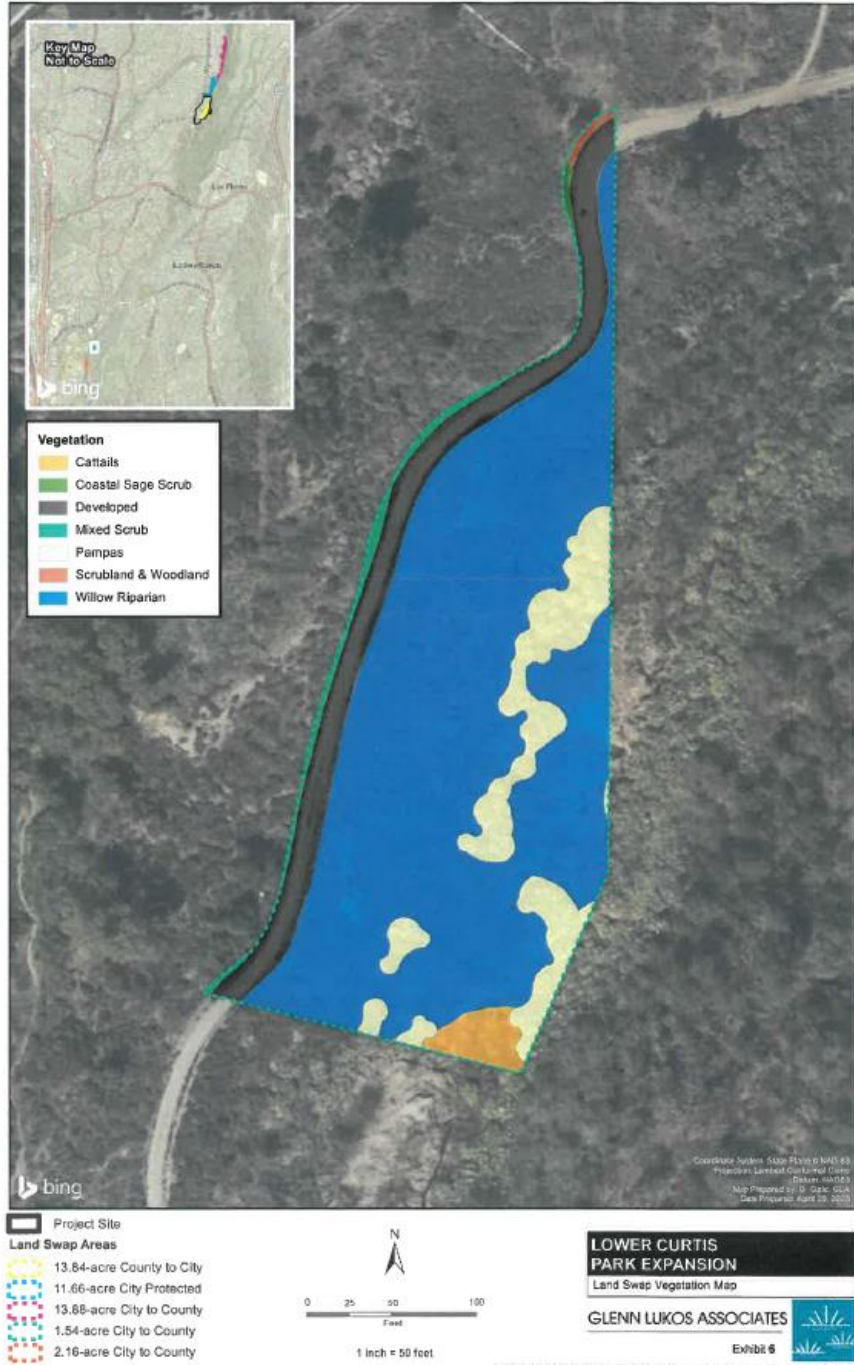


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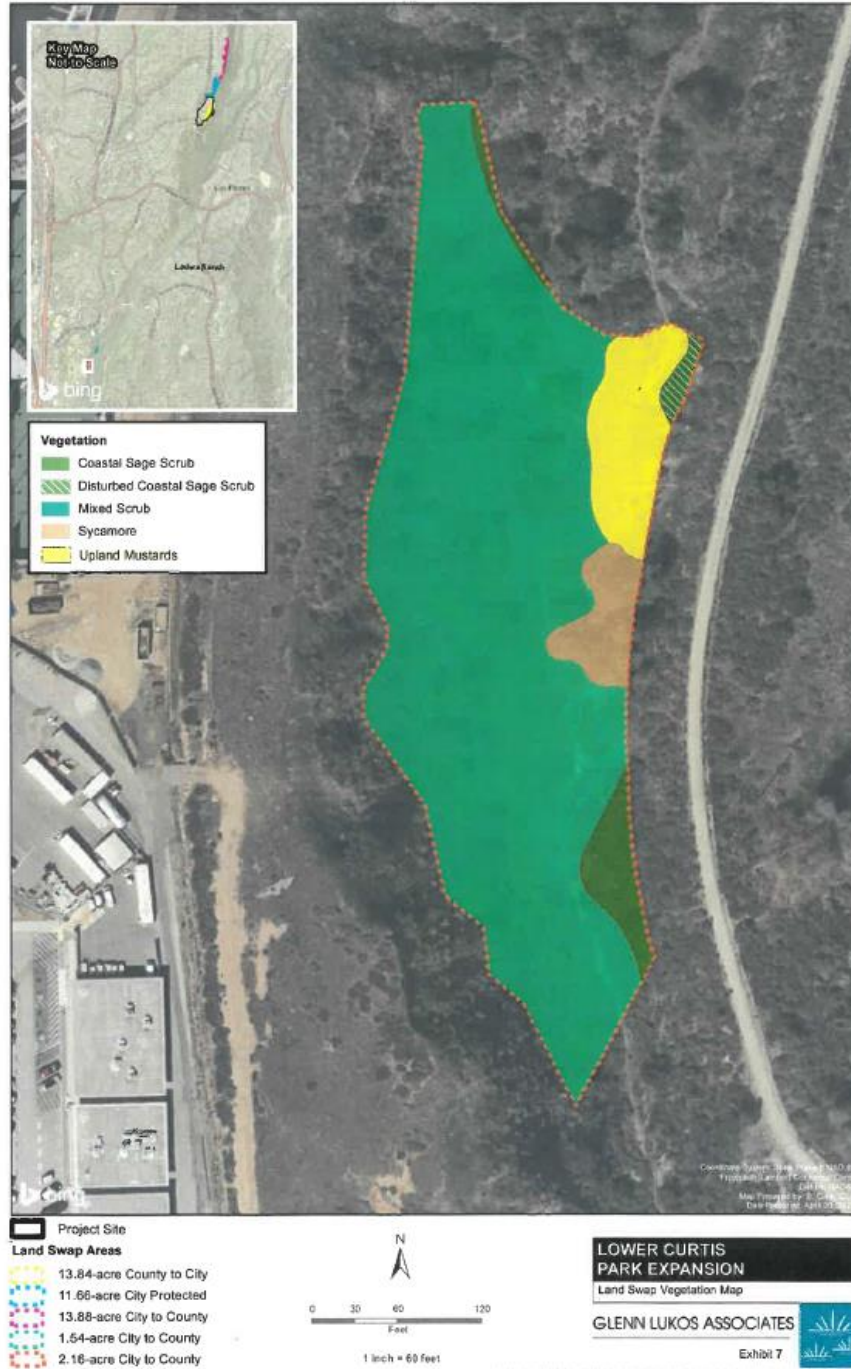


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United States Department of the Interior
U.S. FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer to:
23-0099757_HCP-AMD_OR

July 3, 2023
Sent Electronically

Brian Kurnow
Interim Planning and Design Division Manager
Orange County Parks
13042 Old Myford Road
Irvine, California 92602

Mark Chagnon
Director of Public Works
City of Mission Viejo
200 Civic Center
Mission Viejo, CA 92691

Subject: Minor Amendment to the Orange County Southern Subregion Habitat Conservation Plan for the Lower Curtis Park Expansion Project, Orange County, California

Dear Brian Kurnow and Mark Chagnon:

This letter is in response to the June 27, 2023, request from the County of Orange (County) for a Minor Amendment to remove a 13.84-acre parcel from the Orange County Southern Subregion Habitat Conservation Plan (HCP) Habitat Reserve (Reserve), and add a 13.88-acre parcel, a 1.54-acre parcel, and a 2.16-acre parcel to the Reserve to accommodate the Lower Curtis Park Expansion Project (project). We received the final version of the proposed minor amendment on April 21, 2023 (GLA 2023).

Project Description

The project proposes to expand the existing Robert A. Curtis Park in the City of Mission Viejo (City) to cover an additional 40.26 acres by creating a graded pad below the existing park site to accommodate additional sports fields and/or general use areas. The 40.26-acre expansion area currently consists of 26.42 acres of City-owned lands and 13.84 acres of County-owned Reserve lands (Figure 1). The project will also include an access road, drainage improvements, a water quality basin, and temporary landscaping to protect slope areas and prevent erosion. Final design of Lower Curtis Park, including proposed regulation-sized ballfields has not yet been completed.

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

2

Changes to the Reserve

The Implementation Agreement (Section 15.4, p. 72) for the HCP provides the following guidance regarding minor amendments: “Minor amendments include, but are not limited to, combinations of adding and removing land from the Habitat Reserve which result in no net loss of Habitat Reserve acreage and no long-term net loss of subregional habitat value.” The proposed minor amendment will result in removal of 13.84 acres of County-owned land from the Reserve that will be incorporated into the project footprint. The 13.84-acre County-owned parcel is located in Arroyo Trabuco and consists of about 0.43 acres of native upland scrub, 0.22 acres of native grassland, 0.35 acres of riparian scrub, 0.12 acres of oak woodland, and 12.72 acres of non-native vegetation. The project site, including the County-owned parcel, is known to support dispersal of Covered Species under the HCP, including the coastal California gnatcatcher (*Poliophtila californica californica*, gnatcatcher), but protocol surveys did not detect any gnatcatcher nesting.

To offset the removal of the 13.84-acre parcel, the City will add a 13.88-acre parcel (Northerly Parcel), a 1.54-acre parcel (Site C Mixed Riparian Parcel), and a 2.16-acre parcel (Site C Coastal Sage Scrub Parcel) to the Reserve (17.58 acres total). The Northerly Parcel is a linear strip of land located north of the project site and adjacent to the existing Reserve (Figure 2). It consists of 10.81 acres of coastal sage scrub that supports gnatcatcher, 2.88 acres of oak woodland, and 0.19 acres of non-native vegetation. The Site C Mixed Riparian Parcel includes 1.11 acres of riparian habitat in Arroyo Trabuco south of the project site. About 0.19 acres of pampas grass will be restored to arroyo willow and mulefat at the Site C Mixed Riparian Parcel (Figure 3). The least Bell’s vireo (*Vireo bellii pusillus*, vireo), which is a Covered Species under the HCP, has been detected in the vicinity of the Site C Mixed Riparian Parcel. The Site C Coastal Sage Scrub Parcel is located on the southwest end of Arroyo Trabuco and consists of 1.9 acres of coastal sage scrub, 0.09 acre of sycamore woodland, and 0.17 acres of non-native vegetation (Figure 4). Gnatcatchers have been detected in the vicinity of the Site C Coastal Sage Scrub Parcel (GLA 2023).

Overall, the proposed minor amendment will result in the loss of 1.12 acres of native habitat and 12.72 acres of non-native/disturbed habitat from the Reserve. Additions to the Reserve include 17.01 acres of native habitat and 0.57 acre of non-native/disturbed habitat. The net changes to the Reserve will result in the addition of 15.89 acres of native habitat and removal of 12.15 acres of non-native/disturbed habitat. The total change to the Reserve size will be an increase of 3.74 acres (Table 1).

This portion of the Reserve in Arroyo Trabuco serves mainly as a wildlife corridor between the Reserve to the northeast and open space to the south and west in the Cities of San Clemente and San Juan Capistrano. Removal of the 13.88-acre County parcel from the Reserve will make the corridor slightly more constricted in the vicinity of the project, but the addition of the Northerly Parcel and the two Site C Parcels will protect these areas from future development and conserve the integrity of the Reserve corridor on the north and south ends of Arroyo Trabuco.

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

3

Table 1. Proposed changes to the Reserve by habitat type.

Habitat type	Removed from Reserve	Added to Reserve	Net Change to Reserve
Coastal sage scrub	0.43	12.74	+12.31
Native grassland	0.22	0	-0.22
Oak woodland	0.12	2.88	+2.76
Riparian scrub/forest	0.35	1.3*	+0.95
Sycamore woodland	0	0.09	+0.09
Non-native vegetation	12.38	0.34	-12.04
Disturbed/Developed	0.34	0.23	-0.11
Total	13.84	17.58	+3.74

*Includes 0.19 acre of pampas grass that will be restored to riparian scrub.

Additional City Commitments

In addition to the Reserve additions summarized above, the City proposes to protect 11.66 acres of City-owned land as open space adjacent to the Reserve with a deed restriction or similar protective instrument (Figure 5). The 11.66-acre parcel consists of mostly non-native vegetation, but also supports coyote bush scrub, mulefat scrub, and riparian scrub. This parcel is situated just north of the project site and south of the Northerly Parcel and will serve as a buffer between existing development (Beebe Park) and the Reserve. This parcel will also contribute to the preservation of the existing wildlife corridor along Arroyo Trabuco. The City will provide a draft deed restriction or other protective instrument to the Carlsbad Fish and Wildlife Office (CFWO) for review and approval. Prior to construction of new park facilities, the City will record the CFWO-approved deed restriction or other protective instrument and provide a final copy to the CFWO. The City will also plant about 5 acres of coastal sage scrub on the Reserve-facing slopes of the project footprint, which will help maintain and enhance wildlife movement through Arroyo Trabuco. The City will provide a draft coastal sage scrub planting, monitoring, and maintenance plan to the CFWO for review and approval prior to construction of new park facilities.

It is not yet known if the ballfields in the expanded park area will require night-lighting. If there is a need for lighting, the City will provide draft lighting plans for the expanded park that minimize the impacts of artificial lighting in the Reserve to the CFWO for review and approval prior to construction of new park facilities. The City will also design trash receptacles for the expanded park area in a way that prevents wildlife from accessing trash. Trash receptacle designs will be submitted to the CFWO for review prior to construction of new park facilities.

Suitable breeding habitat for vireo and gnatcatcher is limited in the vicinity of the project footprint, and noise impacts to nesting vireos and gnatcatchers from construction are unlikely to

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

4

occur. However, if any construction will occur within 300 feet of suitable vireo or gnatcatcher habitat during the breeding season for each species (March 15 to September 15 for vireo and February 15 to August 31 for the gnatcatcher), a qualified biologist¹ will conduct pre-construction surveys for vireo and/or gnatcatcher prior to initiating construction. If nesting vireos or gnatcatchers are detected within 300 feet of the project footprint, the City will contact the CFWO to determine appropriate avoidance and minimization measures.

Because the City has an ongoing source of incoming fill, the County has agreed to allow the City to begin placing fill on the County's 13.84-acre parcel before the land swap is finalized, if necessary. The County will issue a license to the City allowing access to the County parcel with the understanding that the land swap will proceed as documents are finalized and recorded. The County and/or City will provide the signed license to the CFWO prior to proceeding with impacts to the County parcel and Reserve. If the land swap does not proceed following City impacts to the Reserve, the City has committed to remove any fill and restore the parcel to existing conditions as mapped in the proposed minor amendment.

Conclusion

We believe that the proposed project qualifies as a minor amendment to the HCP because the amendment: 1) will result in a net increase in the size of the Reserve by 3.74 acres; 2) will result in a net increase in the amount of native habitat supporting Covered Species in the Reserve, including coastal sage scrub, oak woodland, and riparian habitat by 15.89 acres; 3) will protect an additional 11.66 acres of City-owned land adjacent to the Reserve; (4) will plant 5 acres of coastal sage scrub and implement other minimization measures during construction of the expanded park project to minimize disturbance to wildlife and degradation to the adjacent Reserve; and (5) will not negatively impact connectivity within the Reserve.

Based on the consistency of this project with the guidelines for minor amendments, we concur with the approval of this proposal as a minor amendment. We thank you for the opportunity to comment on this proposal and your efforts to ensure that the proposed amendment will be a net benefit to the Reserve. Should you have any questions, please contact [Lauren Kershek](#)² of this office at 760-431-9440, extension 208.

Sincerely,

CAROL ROBERTS
Digitally signed by
CAROL ROBERTS
Date: 2023.07.03
10:45:54 -07'00'

for Jonathan D. Snyder
Assistant Field Supervisor

¹ The qualified biologist will be a trained ornithologist with at least 40 hours of independent gnatcatcher and vireo observation in the field and documented experience of at least 20 hours of locating and monitoring gnatcatcher and vireo nests. If necessary, more than one biologist may be used.

² lauren_kershek@fws.gov

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

5

Literature Cited

[GLA] Glenn Lukos Associates, Inc. 2023. Draft County of Orange Southern Subregion Habitat Conservation Plan Boundary Minor Amendment for the Lower Curtis Park Expansion, Mission Viejo, California. Prepared for the City of Mission Viejo. April.

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

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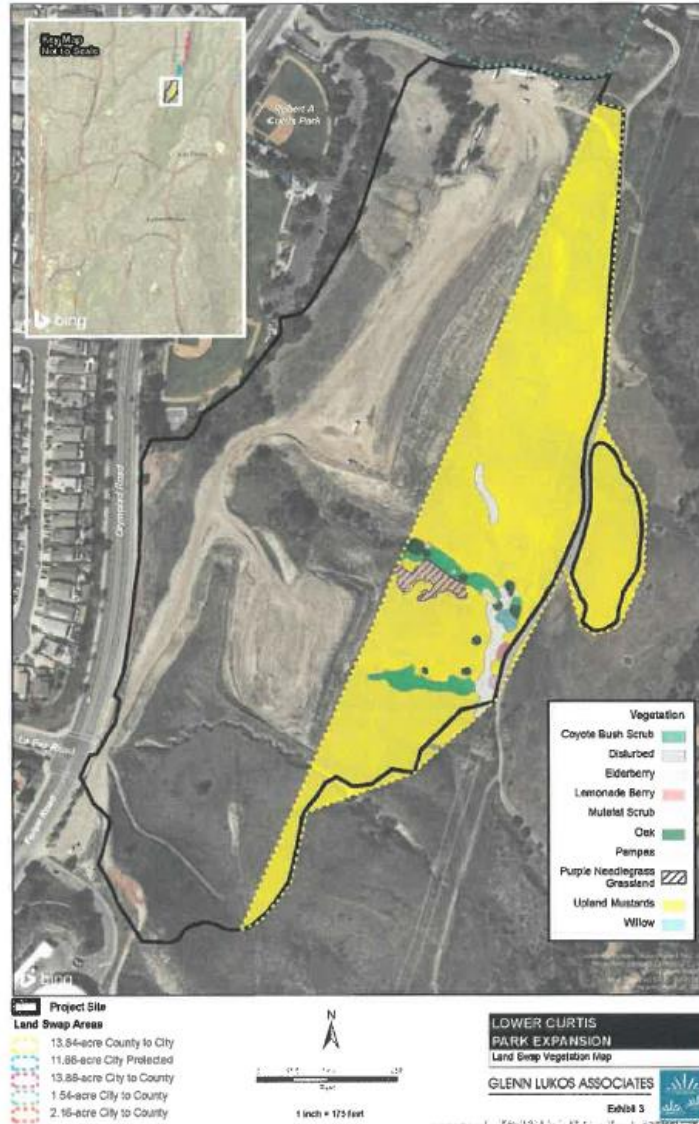


Figure 1. Project site (black outline) and County-owned 13.84-acre Reserve parcel that will be removed from the Reserve (yellow-dotted line) (GLA 2023).

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

7



Figure 2. The 13.88-acre Northerly parcel that will be added to the Reserve to the north of project site (GLA 2023).

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

8



Figure 3. The 1.54-acre Site C Mixed Riparian Parcel that will be added to the Reserve to the south of the project site (GLA 2023).

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

9

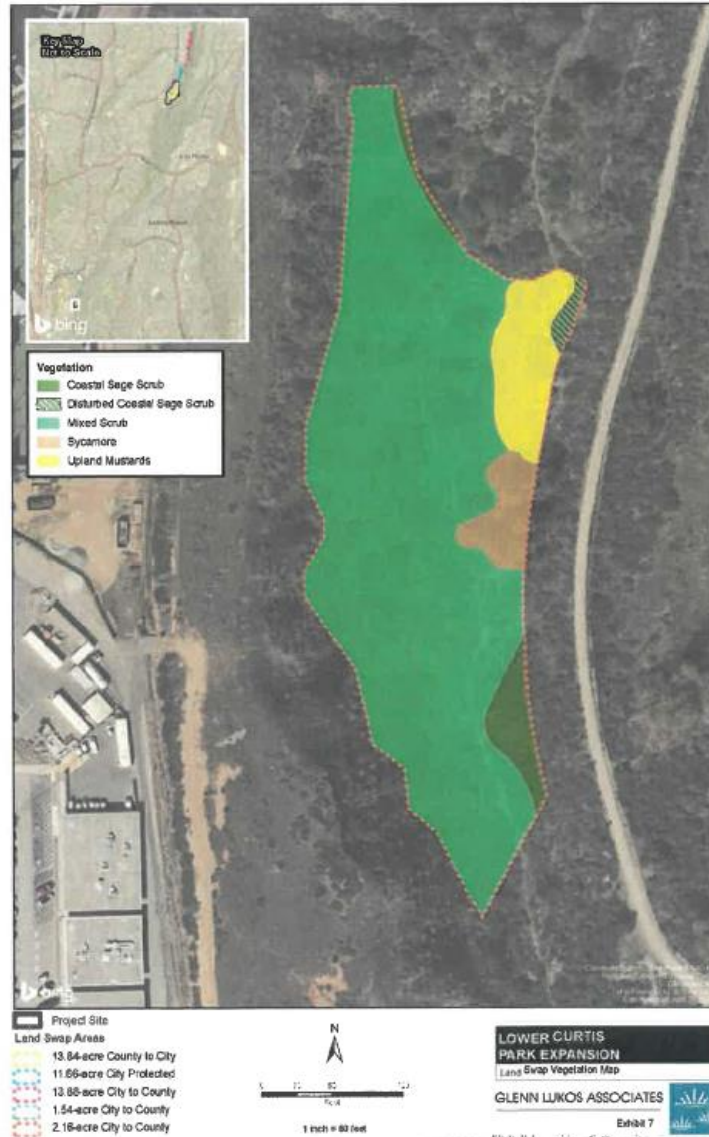


Figure 4. The 2.16-acre Site C Coastal Sage Scrub Parcel that will be added to the Reserve to the south of the project site (GLS 2023).

EXHIBIT B

Brian Kurnow and Mark Chagnon (23-0099757_HCP-AMD_OR)

10



Figure 5. The 11.66-acre parcel that will be protected from development by the City north of the project site (GLA 2023).