



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



January 3, 2023

Salvador Quintanilla  
City of Fontana  
8353 Sierra Avenue  
Fontana, CA 92335

Subject: Draft Program Environmental Impact Report  
Sierra Business Center Project  
SCH #: 2022030544

Dear Salvador Quintanilla,

The California Department of Fish and Wildlife (CDFW) received the proposed Draft Program Environmental Impact Report (DEIR) from the City of Fontana (City) for the Sierra Business Center Project pursuant the California Environmental Quality Act (CEQA) and CEQA guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments and regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

## CDFW ROLE

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

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the project may be subject to CDFW's lake and streambed alteration regulatory authority. ((Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.)) Likewise. To the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

### Project Location

The proposed Project consists of two adjacent Project sites: The Shea and Acacia Project site. Both Project sites are located on the east side of Sierra Avenue between Casa Grande Avenue and Duncan Canyon Road in the City of Fontana, San Bernardino County, California. Specifically, the Shea Project, approximately 11.1 acres, is located within Assessor's Parcel Number(s) (APNs) 0239-151-09 and 0239-151-39. The Acacia Project site, approximately 19.0 acres, is located within APNs 0239-151-19, 0239-151-25, 0239-151-26, and 0239-151-36

### Project Description

The Shea Project involves the development of one commerce center building and the Acacia Project involves the development of two commerce center buildings. Both Projects will also contain surface parking, landscaping, lighting, and signage. Both Project sites are generally surrounded by undeveloped land to the north and developed land to the south. The Shea Project's commerce center building will be used primarily for the storage and office space. There will be 168 parking stalls, a screened truck yard, trailer storage, 34 docking positions, and 18 trailer stalls. The Acacia Project's commerce building will be used for storage and distribution. This site will include 277 parking stalls, a screened truck yard, a trailer storage area with 35 docks doors and 60 trailer stalls.

## **COMMENTS AND REQUESTS**

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project. CDFW requested additions are identified in **bold** within the proposed mitigation measures.

### *Parry's Spineflower*

As noted in the DEIR, Parry's spineflower is a special status plant (pg 4.4-11). The DEIR also states the "combined Shea and Acacia Project impacts to Parry's spineflower would be a cumulatively considerable significant impact and mitigation would be required" (pg 4.4-13). CDFW agrees that Parry's spineflower plants will be significantly impacted based on the size and extent of the population on the Project site (CNDDDB data).

While CDFW appreciates the inclusion of Mitigation Measure (MM) 4.4-1, to mitigate for the loss of 1,396 Parry's spineflower plants, CDFW suggests adding the below language in Minimization Measure 4.4 – 1 to increase the amount of mitigation acreage required for Parry's spineflower and to ensure the conservation lands are protected in perpetuity through a conservation easement, rather than a deed restriction, which does not provide permanent protection. Based on the cumulative project impacts to sensitive plants on 25.53 acres (pg 4.4-17) CDFW recommends the permanent conservation of 51.06 acres (a 2:1 mitigation ratio) of occupied Parry's spineflower habitat. A 1:1 mitigation may be appropriate where a new population of plants could be successfully established to offset the loss. However, establishing new, viable, and self-sustaining plant populations may not be feasible, and should be considered experimental without proven and repeated success. In lieu of establishing new populations to avoid the net loss of individuals, CDFW suggests implementing a minimum 2:1 ratio of mitigation. Additionally, CDFW suggests the MND provide a more specific mitigation location than simply "Inland Empire" (pg 4.4-21). The identification of potential conservation areas will ensure the feasibility of implementing any such conservation has been addressed. Finally, CDFW recommends performing either (i) both 4.4-1-1 and 4.4-1-2 together or (ii) 4.4-1-3 independently to ensure any mitigation performed is protected permanently.

Additionally, CDFW is concerned about Parry's spineflower and Los Angeles Pocket Mouse (LAPM) being included in the same mitigation measure. CDFW recommends the following edits to MM 4.4-1 and the inclusion of measure 4.4-2 to evaluate and fully mitigate impacts to Parry's spineflower and LAPM separately.

MM 4.4-1. Prior to the issuance of a grading permit or any other permit that would authorize vegetation removal, the applicant is required to mitigate for the loss of 1,396 Parry's spineflower plants ~~and habitat for the Los Angeles pocket mouse through one or a combination of the following methods~~ **through the combination of either (i) 1 and 2 or (ii) 3 individually.**

1. The applicant shall acquire and preserve in perpetuity an off-site property of **51.06 acres** containing at least ~~4,396~~ **2,792** Parry's spineflower plants. The property shall be located in the Inland Empire and proof of acquisition and perpetual preservation shall be provided to the City of Fontana. Preserved habitat shall be protected with a ~~deed restriction or~~ conservation easement recorded in favor of the local jurisdiction or a local conservation entity.

2. The applicant shall retain a qualified restoration ecologist with experience developing mitigation plans for sensitive plant species to prepare a Parry's Spineflower Mitigation Plan (Plan) in consultation with the Rancho Santa Ana Botanic Gardens or other qualified entity that has experience with Parry's spineflower. The Plan shall include, at a minimum: (1) collection/salvage methods for Parry's spineflower seed and topsoil from the Acacia Project Site; (2) details regarding the transfer, with or without temporary storage, of the collected/salvaged seed and topsoil; (3) a time schedule for salvage and seeding at a recipient site; (4) identification of an available and suitable location in the City of Fontana or nearby area in the range of the Parry's spineflower with suitable sandy soil that will function as the recipient site for the collected/salvaged seed and soil; (5) detailed site preparation and introduction techniques for the recipient site; (6) a description of supplemental irrigation at the recipient site, if needed; (7) success criteria based on fast and profuse germination, healthy growth rates, adaptive phenotypic plasticity (ability to sustain in the face of environmental variables at the recipient site), and resistance to and high competitive ability, ensuring long term survival of at least 1,277 plants in a self-sustaining environment; and (8) a detailed monitoring program, commensurate with the success criteria. The Plan shall be submitted to and approved by the City of Fontana and implementation of the Plan shall be a condition of the grading permit. The recipient site **from (4.4-1-1)** shall be protected with a ~~deed restriction or~~ conservation easement recorded in favor of ~~the local jurisdiction or~~ a local conservation entity. Monitoring and maintenance of the recipient site by a qualified biologist shall be required for 5 years or until the success criteria goals of the Plan have been met.
3. The applicant shall pay fees into a mitigation bank or in lieu fund established in whole or in part for the purpose of preserving Parry's spineflower plants, to mitigate for the loss of 1,396 plants **at a 2:1 mitigation ratio**. Proof of fee payment shall be provided to the City of Fontana.

### *Los Angeles Pocket Mouse*

While CDFW appreciates the inclusion of sensitive animal species, we request that MM 4.4-2 be split into two measures. Due to the nature of these sensitive species, the Los Angeles Pocket Mouse (LAPM) and sensitive reptiles should not be combined. CDFW recommends a measure for Los Angeles Pocket Mouse (LAPM) and a separate measure for sensitive reptiles.

As mentioned in the DEIR, the LAPM is a Species of Special concern and is present on the Shea and Acacia Project sites. Due to their presence on the project sites, "potential

injury or mortality to individual mice could occur, and habitat loss would occur on both [sites] during construction [...] the impacts may cause a substantial adverse effect on this species [...] and mitigation would be required (pg 4.4-15). According to the 2021 Los Angeles Pocket Mouse Survey Report, part of the Western Riverside Multiple Species Habitat Conservation Plan, “[Scientists] recorded [their] lowest occupancy estimates to date in the [trapped core areas]” (pg 12). While trapping in 2021 did not occur in the Jurupa mountains or the Santa Ana River in 2021, CDFW considers this finding an indication of LAPM’s population decline in the Inland Empire’s counties and recommends the Applicant implement a relocation/translocation plan and the permanent conservation of 76.59 acres (a 3:1 mitigation ratio) of LAPM habitat.

CDFW requests that MM 4.4-2 be revised to include the following:

MM 4.4-2. Prior to the issuance of a grading permit or any other permit that would authorize vegetation removal, the applicant is required to retain the services of a qualified biologist to **conduct preconstruction surveys (trapping), implement a CDFW-approved relocation/translocation plan for LAPM, and subsequently** monitor grubbing, clearing, and mass grading activities for sensitive animal species including Los Angeles pocket mouse, ~~east horned lizard and coastal whiptail~~. The biologist(s) shall be required to **trap potentially occupied areas within the project site during appropriate season/weather conditions prior to be present** during grubbing, clearing, and mass grading activities and if these species are ~~observed present~~, the biologist(s) shall ~~direct~~ **implement the CDFW-approved relocation/translocation plan to move any encountered LAPM** these animals out of harm’s way ~~to the extent practicable~~, to a location of suitable habitat outside of the project’s impact footprint, **or other location approved by CDFW in the relocation/translocation plan**. The grubbing, clearing, and mass grading contractor(s) shall be required via a note on the grading plans to follow the instructions of the ~~monitoring~~ biologist.

**In addition, appropriate permanent mitigation shall be provided by the Applicant within 6 months of initiating project activities, in coordination with CDFW, to offset the loss of occupied LAPM habitat.**

**The Applicant shall compensate for project impacts to LAPM by restoring and/or enhancing and maintaining 76.59 acres of LAPM habitat at a CDFW approved location. Habitat shall be preserved in perpetuity via conveyance of a conservation easement to a CDFW-approved entity.**

### *Special Status Reptiles*

Both the BTR and DEIR state “potential injury or mortality to individual coast horned lizard [and coastal whiptail] could occur, and habitat loss would occur over both [project sites] (Appendix C1 pg 18 and DEIR pg 4.4-14). Compensatory mitigation is proposed in Appendix C1 as well as the DEIR (Appendix C1 pg 18 and DEIR pg 4.4-14).

As mentioned in the above LAPM section, CDFW requests that MM 4.4-2 be split into two to account for both species of special concern. CDFW suggests adding the following language pertaining to reptiles.

**MM 4.4-5 Applicant shall minimize impacts to non-listed, special status reptiles and amphibians within the Project area. The Designated Biologist(s) shall conduct pre-construction surveys prior to the initiation of ground-disturbing activities within areas containing suitable habitat, including burrows, sand fields, and rock piles. If any special status reptiles are detected, the Designated Biologist(s) shall provide the animal sufficient time to leave on its own accord. If any state-listed reptile species is identified and has the potential to be impacted by the Project, Permittee shall halt all Project activities that could result in impacts and contact CDFW immediately. If full avoidance cannot be accomplished, Permittee shall postpone the Project until appropriate CESA authorization is obtained.**

### *Nesting Birds*

Nesting birds of special concern found on the project sites include Bell’s sage sparrow (*Artemisospiza belli belli*), Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), and the California horned lark (*Eremophila alpestris actia*) (Appendix C1 BTR pg 12). The DEIR states all three birds “would be expected to fly away from construction activity and, therefore, not be injured or killed by construction” (pg 4.4-14). Considering the timing of nesting season varies and depends on factors such as the bird species, weather, conditions, and long-term climate changes (e.g., drought, warming, etc) therefore CDFW strongly recommends pre-construction surveys be completed before any construction activity. As described in the DEIR, “[Both] Projects have the potential to contribute to a cumulatively-considerable impact to nesting birds” (pg 4.4-18). Due to their presence, CDFW requests the following language be updated in measure 4.4-4.

**MM 4.4-4. In order to ensure compliance with the MBTA and California Fish and Game Code, the initial clearing, grubbing, and grading of land shall occur outside of the nesting season (i.e., outside of the period February 1 through September 15). If ~~Before any~~ ground-disturbing activities must occur during the nesting season, a pre-construction nesting bird survey shall be**

conducted by a ~~qualified~~ **Designated** biologist 3 days prior to the ground-disturbing activities. If birds are found to be nesting inside or within 250 feet (500 feet for raptors) of the impact area, construction shall be postponed at the discretion of a ~~qualified~~ **Designated** biologist, until it is determined that the nest is no longer active.

1. **Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
2. **Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.**
3. **When an active nest is confirmed, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or**

**implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers.**

### *Burrowing Owl*

While CDFW appreciates the burrowing owl survey due to the “low possibility” they are present on the Project Site (Table 3, pg 13), CDFW suggests additional pre-construction burrowing owl surveys before Project commencement. The DEIR mentions a lack of burrowing owl presence in the Project site, despite the presence of California ground squirrel burrows. (pg 91) CDFW considers the presence of California ground squirrels to be a strong indication of burrowing owl habitat. CDFW suggests adding the following mitigation measure in case burrowing owls are present on the Project site:

- MM 4.4-6 Applicant shall ensure that impacts to burrowing owls are avoided through the implementation of preconstruction surveys and ongoing monitoring.**
- 1. Pre-Construction Survey for Burrowing Owls. Applicant shall have a Designated biologist perform a survey for burrowing owls at least 30 days prior to construction activities.**
  - 2. Burrowing Owls Observed During Construction. If burrowing owls are observed within the Project site during Project construction, Applicant shall avoid burrowing owl habitat and the Designated biologist shall implement any appropriate avoidance and minimization measures.**
  - 3. Burrowing Owl Mitigation and Monitoring Plan. If burrowing owls are detected on the Project site, a Burrowing owl Mitigation and Monitoring Plan shall be submitted to CDFW for review and approval prior to relocation of owls. Burrowing Owl Mitigation and Monitoring Plan shall include the number and location of occupied burrow sites and details on adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation of artificial burrows (numbers, location, and type of burrows) shall also be included in the Burrowing Owl Mitigation and Monitoring Plan. As compensation for the scenario of loss of burrowing owl nesting and foraging habitat, the Burrowing Owl Mitigation and Monitoring Plan shall identify mitigation including acquisition and funding the permanent protection for the loss of burrowing owl habitat consistent with the 2012 Staff Report.**

## **MITIGATION**

When considering mitigation, it is important that the land conserved for mitigation has the same or better resource value than the resource value being impacted. Mitigation lands should be enhanced and managed in perpetuity to mitigate for the impact and loss of habitat. If the mitigation land would require restoration, it would be important to consider the time it will take for the sites to fully establish, whether there will be a temporary loss of function and value, and whether some types of biological resources cannot be restored or recreated within a reasonable period (e.g., 1-3 years).

CDFW recommended mitigation, including the permanent conservation of lands, for several species presumed present that would be potentially significantly impacted by the Project. If mitigation lands identified will meet species requirements for some or all of the species requiring mitigation, the mitigation may be co-located on a single property (i.e., separate mitigation parcels for each requirement may not be necessary)

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

## **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 & G. Code, § 711.4; Pub. Resources Code, § 21089.).

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the DEIR for the City of Fontana's Sierra business center Project (SCH No. 2022030544). CDFW recommends that the city address the comments and concerns identified in this letter in the forthcoming revised DEIR or FEIR. If you should have any questions pertaining to the comments provided in

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City on Fontana  
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this letter, please contact Chelsea Price at (760) 507-5051 or at [Chelsea.price@wildlife.ca.gov](mailto:Chelsea.price@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

**Attachment:** Draft Mitigation Monitoring and Reporting Program for CDFW-proposed Mitigation Measures

ec: Office of Planning and Research, State Clearinghouse, Sacramento

HCPB CEQA Coordinator  
Habitat Conservation Planning Branch

Chelsea Price, Environmental Scientist, CDFW Inland Deserts Region  
[Chelsea.Price@wildlife.ca.gov](mailto:Chelsea.Price@wildlife.ca.gov)

**ATTACHMENT 1**

**MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

**PURPOSE OF THE MMRP**

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

**TABLE OF MITIGATION MEASURES**

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

<b>Mitigation Measure</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p>MM 4.4-1: Prior to the issuance of a grading permit or any other permit that would authorize vegetation removal, the applicant is required to mitigate for the loss of 1,396 Parry's spineflower plants and habitat for the Los Angeles pocket mouse through one or a combination of the following methods <b>through the combination of either (i) 1 and 2 or (ii) 3 individually.</b></p> <p>1. The applicant shall acquire and preserve in perpetuity an off-site property of <b>51.06 acres</b> containing at least <del>1,396</del> <b>2,792</b> Parry's spineflower plants. The property shall be located in the Inland Empire and proof of acquisition and perpetual preservation shall be provided to the City of Fontana. Preserved habitat shall be protected with a deed restriction or conservation easement recorded in favor of the local</p>	<p>Before commencing ground- or vegetation-disturbing activities/            Throughout project duration</p>	<p>Project Proponent</p>

<p>jurisdiction or a local conservation entity.</p> <p>2. The applicant shall retain a qualified restoration ecologist with experience developing mitigation plans for sensitive plant species to prepare a Parry's Spineflower Mitigation Plan (Plan) in consultation with the Rancho Santa Ana Botanic Gardens or other qualified entity that has experience with Parry's spineflower. The Plan shall include, at a minimum: (1) collection/salvage methods for Parry's spineflower seed and topsoil from the Acacia Project Site; (2) details regarding the transfer, with or without temporary storage, of the collected/salvaged seed and topsoil; (3) a time schedule for salvage and seeding at a recipient site; (4) identification of an available and suitable location in the City of Fontana or nearby area in the range of the Parry's spineflower with suitable sandy soil that will function as the recipient site for the collected/salvaged seed and soil; (5) detailed site preparation and introduction techniques for the recipient site; (6) a description of supplemental irrigation at the recipient site, if needed; (7) success criteria based on fast and profuse germination, healthy growth rates, adaptive phenotypic plasticity (ability to sustain in the face of environmental variables at the recipient site), and resistance to and high competitive ability, ensuring long term survival of at least 1,277 plants in a self-sustaining environment; and (8) a detailed monitoring program, commensurate with the success criteria. The Plan shall be submitted to</p>		
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<p>and approved by the City of Fontana and implementation of the Plan shall be a condition of the grading permit. The recipient site <b>from (4.4-1-1)</b> shall be protected with a <del>deed restriction or</del> conservation easement recorded in favor of <del>the local jurisdiction or</del> a local conservation entity. Monitoring and maintenance of the recipient site by a qualified biologist shall be required for 5 years or until the success criteria goals of the Plan have been met.</p> <p>3. The applicant shall pay fees into a mitigation bank or in lieu fund established in whole or in part for the purpose of preserving Parry's spineflower plants, to mitigate for the loss of 1,396 plants <b>at a 2:1 mitigation ratio</b>. Proof of fee payment shall be provided to the City of Fontana.</p>		
<p>MM 4.4-2: Prior to the issuance of a grading permit or any other permit that would authorize vegetation removal, the applicant is required to retain the services of a qualified biologist to <b>conduct preconstruction surveys (trapping), implement a CDFW-approved relocation/translocation plan for LAPM, and subsequently</b> monitor grubbing, clearing, and mass grading activities for sensitive animal species including Los Angeles pocket mouse, coast horned lizard and coastal whiptail. The biologist(s) shall be required to <b>trap potentially occupied areas within the project site during appropriate season/weather conditions prior to</b> be present during grubbing, clearing, and mass grading activities and if these species are observed <b>present</b>, the biologist(s) shall direct or <b>implement the CDFW-approved relocation/translocation plan to move any encountered LAPM</b> these animals out of</p>	<p>Before commencing ground- or vegetation-disturbing activities/          Throughout project duration</p>	<p>Project Proponent</p>

<p>harm's way to the extent practicable, to a location of suitable habitat outside of the project's impact footprint, <b>or other location approved by CDFW in the relocation/translocation plan.</b> The grubbing, clearing, and mass grading contractor(s) shall be required via a note on the grading plans to follow the instructions of the monitoring biologist.</p> <p><b>In addition, appropriate permanent mitigation shall be provided by the Applicant within 6 months of initiating project activities, in coordination with CDFW, to offset the loss of occupied LAPM habitat.</b></p> <p><b>The Applicant shall compensate for project impacts to LAPM by restoring and/or enhancing and maintaining 76.59 acres of LAPM habitat at a CDFW approved location. Habitat shall be preserved in perpetuity via conveyance of a conservation easement to a CDFW-approved entity</b></p>		
<p>MM 4.4-4: In order to ensure compliance with the MBTA and California Fish and Game Code, the initial clearing, grubbing, and grading of land shall occur outside of the nesting season (i.e., outside of the period February 1 through September 15). <del>If <b>Before any</b> ground-disturbing activities must occur during the nesting season,</del> a pre-construction nesting bird survey shall be conducted by a <del>qualified</del> <b>Designated</b> biologist 3 days prior to the ground-disturbing activities. If birds are found to be nesting inside or within 250 feet (500 feet for raptors) of the impact area, construction shall be postponed at the discretion of a <del>qualified</del> <b>Designated</b> biologist, until it is determined that the nest is no longer active.</p>		

<p><b>1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.</b></p> <p><b>2. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated</b></p>		
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<p><b>Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.</b></p> <p><b>3. When an active nest is confirmed, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers.</b></p>		
<p><b>MM 4.4-5: Applicant shall minimize impacts to non-listed, special status reptiles and amphibians within the Project area. The Designated Biologist(s) shall conduct pre-construction surveys prior to the initiation of ground-disturbing activities within areas containing suitable habitat, including burrows, sand fields,</b></p>	<p>Before commencing ground- or vegetation-disturbing activities/          Throughout project duration</p>	<p>Project Proponent</p>

<p>and rock piles. If any special status reptiles are detected, the Designated Biologist(s) shall provide the animal sufficient time to leave on its own accord. If any state-listed reptile species is identified and has the potential to be impacted by the Project, Permittee shall halt all Project activities that could result in impacts and contact CDFW immediately. If full avoidance cannot be accomplished, Permittee shall postpone the Project until appropriate CESA authorization is obtained.</p>		
<p><b>MM 4.4-6: Applicant shall ensure that impacts to burrowing owls are avoided through the implementation of preconstruction surveys and ongoing monitoring.</b></p> <ol style="list-style-type: none"> <li><b>1. <u>Pre-Construction Survey for Burrowing Owls.</u> Applicant shall have a Designated biologist perform a survey for burrowing owls at least 30 days prior to construction activities.</b></li> <li><b>2. <u>Burrowing Owls Observed During Construction.</u> If burrowing owls are observed within the Project site during Project construction, Applicant shall avoid burrowing owl habitat and the Designated biologist shall implement any appropriate avoidance and minimization measures.</b></li> <li><b>3. <u>Burrowing Owl Mitigation and Monitoring Plan.</u> If burrowing owls are detected on the Project site, a Burrowing owl Mitigation and Monitoring Plan shall be submitted to CDFW for review and approval prior to relocation of owls. Burrowing Owl Mitigation and</b></li> </ol>	<p>Before commencing ground- or vegetation-disturbing activities/          Throughout project duration</p>	<p>Project Proponent</p>

<p><b>Monitoring Plan shall include the number and location of occupied burrow sites and details on adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation of artificial burrows (numbers, location, and type of burrows) shall also be included in the Burrowing Owl Mitigation and Monitoring Plan. As compensation for the scenario of loss of burrowing owl nesting and foraging habitat, the Burrowing Owl Mitigation and Monitoring Plan shall identify mitigation including acquisition and funding the permanent protection for the loss of burrowing owl habitat consistent with the 2012 Staff Report.</b></p>		
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