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

December 9, 2025
Sent via email

Kendra Reif
Community Development Director
City of Coachella
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Coachella, CA 92236
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KPC Coachella Specific Plan Project (PROJECT)
Draft Environmental Impact Report (DEIR)
SCH# 2022110295

Dear Kendra Reif:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of Coachella (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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 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 the potential to adversely affect fish and wildlife resources.

[1]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. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: KPC Development Company, LLC

Objective: The Project proposes a master planned community on approximately 2,807 acres located at the eastern entrance of the City of Coachella. This Project entails the construction of a maximum of 9,538 residential dwelling units, as well as a maximum of 305 acres of commercial development, which includes a maximum of 844 multiple-family dwelling units. In addition, 395 acres of parks, greenways, and amenity centers; 68 acres of agricultural production; and 754 acres of drainage and other open space are included in the Project. The Project would also include 179 acres of right-of-way/streets. The Project proposes two connection points to the existing roadways within the City. The main entry into the Project would be via the planned Avenue 50 and Interstate 10 interchange directly to the south. Additionally, the extension of Vista Del Norte from the west would provide access to Dillon Road and the rest of the City. The Project would also include the construction or improvement of various off-site infrastructure, including extending utilities, water facilities, sewer lines, drainage facilities. The Project would be constructed in six phases. The actual phasing sequence and timeframe for development may vary depending on market conditions.

The Project proposes a mixture of native and non-native trees and shrubs for landscaping. Artificial nighttime lighting is proposed along multi-use paths, walkways, and other areas used by pedestrians and bicyclists and will be provided except in natural open space areas.

Location: The Project site is located within and at the eastern entrance of the City of Coachella, Riverside County, California. The Project site is approximately three miles east of the City center in the foothills of the Little San Bernardino Mountains. The Project site is bounded by the Little San Bernardino Mountains to the north, the City of Indio to the northwest, Interstate 10 (I-10) to the south and west, and unincorporated Riverside County to the east and north. The Project is located within the plan area for the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP); the Project involved a Like Exchange between the East Indio Hills and Dos Palmas

Conservation Areas of the CVMSHCP. The Project is located within the Accessor's Parcel Numbers listed in the following table:

Parcel ID Number					
603-140-013	603-170-009	603-200-008	603-200-024*	603-210-003	697-280-016
603-140-016	603-170-010	603-200-009	603-200-026*	603-210-004	697-280-017
603-140-017	603-180-002	603-200-012	603-200-027*	603-210-005	697-280-018
603-160-005	603-190-004	603-200-013	603-200-028*	603-210-006	707-320-018
603-160-006	603-200-001	603-200-016*	603-200-029	603-210-007	707-320-019
603-160-007	603-200-002	603-200-017	603-200-030*	603-210-008	707-320-020
603-160-008	603-200-003	603-200-018	603-200-031*	603-210-009	707-330-003
603-160-009	603-200-005	603-200-019*	603-200-032	603-210-010	
603-160-012	603-200-006	603-200-020*	603-210-001	603-210-012	
603-160-013	603-200-007	603-200-021*	603-210-002	603-210-013	
* - Approximately 91 acres in the central portion of the Project area are owned by others and are designated as "Not a Part" on the land use plan for the Project.					

Timeframe: The DEIR indicates that development and full buildout of the Project is expected to occur in six phases over a period of 20 years, starting in 2025 with anticipated Project completion by 2045. The DEIR indicates that the actual phasing sequence and years may vary depending on market conditions.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). 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 DEIR has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

CDFW's comments and recommendations on the DEIR are explained in greater detail below and summarized here. CDFW is concerned that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information to facilitate a meaningful review by CDFW, including a complete and accurate assessment of biological resources on the Project site. CDFW requests that additional information and analyses be added to a revised DEIR, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to less than significant.

<u>Existing Environmental Setting</u>

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting has not been adequately analyzed in the DEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the DEIR may provide an incomplete analysis of Project-related environmental impacts.

The DEIR lacks a complete assessment of biological resources associated with burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), desert kit fox (*Vulpes macrotis arsipus*), ringtail (*Bassariscus astutus*), and special-status plants within the Project site and surrounding area. A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

Mitigation Measures

CEQA requires that a DEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the DEIR are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the City in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for Le Conte's thrasher (*Toxostoma lecontei*), American badger, desert kit fox, ringtail, special-status plants, CDFW's Lake and Streambed Alteration Program, CVMSHCP Local Development Mitigation Fee, Salvage of Sand-Dependent Covered Species, and artificial nighttime lighting, as well as revising the mitigation measures for nesting birds, burrowing owls, and desert tortoise.

1) Nesting Birds

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the CVMSHCP, per its associated Implementing Agreement (IA) and Permits from CDFW and the U.S. Fish and Wildlife Service (the Wildlife Agencies),

Take associated with Covered Activities will not be in violation of the Migratory Bird Treaty Act and will be consistent with Fish and Game Code sections 3503 and 3503.5; therefore, all Covered Activities within and outside Conservation Areas must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds. The CVMSHCP includes a general conservation measure that applies to all bird species to avoid impacts to habitat for nesting birds during the nesting season (CVMSHCP Section 9.7). Per IA Section 13.2, the City is obligated to ensure the projects to which it confers Take Authorization under the CVMSHCP comply with all terms and requirements of the CVMSHCP, the Wildlife Agencies' Permits that create the CVMSHCP, and the IA, including compliance with laws that protect nesting birds.

Page 10 of the KPC Coachella Biological Resources Assessment and Coachella Valley MSHCP Consistency Report (Biological Assessment), dated April 2020, indicates that "highly suitable habitat for burrowing owl (*Athene cunicularia*) and other special-status species such as Le Conte's thrasher (*Toxostoma lecontei*), loggerhead shrike (observed), and black-tailed gnatcatcher (observed), as well as numerous more common bird species is present within the project site and adjacent areas." CDFW adds that the Project site contains suitable habitat for both ground-nesting birds and birds that nest in shrubs and trees.

The DEIR includes Mitigation Measure BIO-3 for nesting birds, which indicates that "to avoid direct impacts to raptors and/or native/migratory birds, removal of habitat that supports active nests in the proposed area of disturbance would occur outside of the breeding season for these species (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, a qualified avian biologist would conduct a preconstruction survey to determine the presence or absence of nesting birds in the proposed area of disturbance." CDFW considers the mitigation measure for nesting birds in the DEIR to be inadequate in scope and timing to avoid or reduce impacts to nesting birds to a level less than significant. CDFW appreciates that the Project aims to conduct activities that result in removal of suitable nesting habitat outside of the peak breeding season. This aligns with the CVMSHCP's general conservation measure for nesting birds (CVMSHCP Section 9.7), which includes "avoid[ing] impacts to Habitat during nesting season, generally from February through July, for all bird species." CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to ensure that impacts to nesting birds and their nests and eggs are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources

(Socolar et al., 2017[2]). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site and surrounding area be avoided any time birds are nesting on-site. CDFW therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

To support the City in avoiding or reducing impacts to nesting birds to a level less than significant, CDFW recommends Mitigation Measure BIO-3 is revised as follows, with additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-3: Nesting Birds

To the greatest extent feasible, the Project, including each of its Phases and the Off-Site Improvement Areas, will avoid construction activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to impending vegetation removal or ground-disturbing activities for all Phases of the Project. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. ~~To avoid direct impacts to raptors and/or native/migratory birds, removal of habitat that supports active nests in the proposed area of disturbance would occur outside of the breeding season for these species (February 1 to September 15). If removal of habitat in the proposed~~

[2] Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

~~area of disturbance must occur during the breeding season, a qualified avian biologist would conduct a preconstruction survey to determine the presence or absence of nesting birds in the proposed area of disturbance. The pre-construction survey would be conducted three calendar days prior to the start of construction activities (including removal of vegetation). If nesting birds are observed, a letter report or mitigation plan in conformance with applicable state and federal law (i.e., appropriate follow-up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) would be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan would be submitted to CDFW and/or USFWS, as applicable, for review and approval and implemented to the satisfaction of the agency(ies). The Project biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction. If nesting birds are not observed during the pre-construction survey, no further mitigation is required.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for revised MM BIO-1, BIO-2 and MM BIO-3, as well as CDFW-recommended MM BIO-[A], MM BIO-[B], MM BIO-[C], MM BIO-[D], MM BIO-[E], MM BIO-[F], MM BIO-[G], MM BIO-[H], and MM BIO-[I].

2) Burrowing Owl

On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA. If Project activities, including relocation, could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules

and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the CVMSHCP, the CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs. To the contrary, section 3.5.6 of the NCCP Permit states burrowing owl "pairs or individuals will not be Taken" and reiterates that the "HCP/NCCP does not authorize Take of [burrowing owl] nests [or] eggs[.]" Therefore, throughout the CVMSHCP area—both within and without Conservation Areas—Permittees must ensure that activities occurring within their jurisdictions do not result in the take, possession, or destruction of burrowing owl individuals, nests, or eggs. Any activity occurring within the CVMSHCP area that results in the take of burrowing owl individuals, nests, or eggs would be unlawful and would not be a Covered Activity under the CVMSHCP. Per IA Section 13.2, the City is obligated to ensure the projects to which it confers Take Authorization under the CVMSHCP comply with all terms and requirements of the CVMSHCP, the Wildlife Agencies' Permits that created the CVMSHCP, and the IA, including compliance with laws that protect burrowing owls.

Page 10 of the Project's Biological Assessment states that "highly suitable habitat for burrowing owl (*Athene cunicularia*) […] as well as numerous more common bird species is present within the project site and adjacent areas." CDFW adds that the entire Project site contains suitable nesting and foraging habitat for burrowing owl. Regarding survey methods, pages 5 and 6 of the Biological Assessment states that "in April and May 2019, RBC biologists conducted vegetation mapping, habitat assessments, and a general biological survey within the project site. […] During the field surveys biologists took notes on existing site conditions, vegetation, and suitability of habitat for special-status species with potential to occur on site. […] In addition to species observed, expected wildlife usage of the project site was determined by known habitat preferences of regional wildlife species and knowledge of their relative distributions in the area." The DEIR and its supporting documents lack information on whether focused surveys for burrowing owl were conducted and the methods used to conduct any surveys for burrowing owl. Because the DEIR lacks the findings of recent focused surveys for burrowing owl following the guidelines in the *Staff Report on Burrowing Owl Mitigation*,[3] the number and locations of suitable and occupied burrows within the Project site are unknown. Given the lack of results from focused surveys for burrowing owl following recommended protocols and the lack of survey reports, CDFW is limited in its ability to provide biological expertise to support the City in reducing impacts to burrowing owl to a level less than significant. CDFW recommends that the DEIR is revised to include the results of four focused surveys for burrowing owl within the entire Project site and

[3] California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline

surrounding area, including survey reports,[4] following the guidelines outlined in Appendix D of the *Staff Report on Burrowing Owl Mitigation* and to incorporate appropriate avoidance, minimization, and mitigation measures for burrowing owl. Focused surveys are needed to inform appropriate avoidance, minimization, and mitigation measures and support the City and Project proponent in avoiding or reducing impacts to burrowing owl to a level less than significant. CDFW requests that if burrowing owls are detected during focused surveys, survey results are submitted to the Wildlife Agencies, and the City initiate consultation with the Wildlife Agencies to identify a path forward regarding the protection of burrowing owls.

The DEIR includes Mitigation Measure BIO-2, which indicates that "two preconstruction take avoidance surveys should be conducted prior to any vegetation removal, ground disturbance." In addition to pre-construction surveys, CDFW recommends that focused burrowing owl surveys are first conducted and the results submitted to Wildlife Agencies. This provides time for the City and Project proponent to start coordination with the Wildlife Agencies early to identify appropriate avoidance, minimization, and mitigation measures and reduce the chance of Project delays. Without details of focused surveys and appropriate information sharing and coordination with the Wildlife Agencies, CDFW considers Mitigation Measure BIO-2 to be inadequate in scope and timing to avoid or reduce impacts to burrowing owl to a level less than significant.

To support the City in avoiding or reducing impacts to burrowing owl to a level less than significant, CDFW recommends that Mitigation Measure BIO-2 is revised with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-2: Burrowing Owl Focused and Pre-Construction Surveys

Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities, for all phases of the Project including the Off-Site Construction Improvement Areas. CDFW strongly recommends that focused surveys are conducted in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version)[5]. For all phases of the Project, if

[4] Survey reports should include details on survey methods and results, including, but not limited to, the names and qualifications of surveyor(s); a description of survey methods; a description of the conditions of the project site and recent photos; map(s) showing the locations of all suitable burrows, occupied burrows, burrowing owls, and burrowing owl sign; descriptions of burrowing owl behavior observed; California Natural Diversity Database (CNDDB) field survey forms, etc. For more information, see Appendix D, Survey Reports, of the CDFW 2012 Staff Report on Burrowing Owl Mitigation.

[5] California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843.

burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the *Staff Report on Burrowing Owl Mitigation*, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the *Staff Report on Burrowing Owl Mitigation* under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities, for all Phases of the Project. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, appropriate NCCP (Fish and Game Code section 2835) or CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.

For all phases of the Project, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not recommence until consultation with CDFW and USFWS is completed. ~~In accordance with CDFW's Staff Report on Burrowing Owl Mitigation, two preconstruction take avoidance surveys should be conducted prior to any vegetation removal, ground disturbance, or similar activity as follows: No less than thirty days prior to the onset of ground disturbance, a qualified biologist shall survey the construction limits of the Project and 500-foot buffer for the presence of burrowing owls and occupied nest burrows, in accordance with the Staff Report on Burrowing Owl Mitigation. A final survey shall be conducted within 24 hours prior to ground disturbance. If nesting and/or activity is present at any burrow site, then the active burrow shall be protected until nesting activity has ended to ensure compliance with Section 3503.5 of the California Fish and~~

~~Game Code. Nesting activity for burrowing owls normally occurs from February 1 to August 31. To protect any burrow site, the following restrictions on construction are required between February 1 to August 31:1) Clearing limits will be established a minimum of 300 feet in any direction from any occupied burrow; and2) Access and surveying will not be allowed within 50 feet of any occupied burrow. Any occupied burrows found during the survey efforts shall be mapped on the construction plans and an ESA avoidance buffer shall be established. Construction during the non-nesting season can occur only at the sites if a qualified biologist has determined that the burrows are no longer active. If an active burrow is observed during the non nesting period, the burrow site will be monitored by a qualified biologist, and when the owl is outside the burrow entrance, the biologist will flush any owl to open space areas. The biologist will then excavate the burrow site with tools or fill the burrow with soil so owls cannot return to the burrow site. Any relocation efforts would be coordinated with the CDFW and/or USFWS. If a burrowing owl is found to be present during the breeding season (February 1 to August 31), no ground disturbance would begin within the occupied area until after the breeding season (i.e., after August 31) and/or until the burrowing owl have completed their nesting activities. Generally, a 300- to 500-foot buffer around nesting owls during construction activities would be implemented."~~

3) Le Conte's Thrasher

Page 10 of the Project's Biological Assessment states that "highly suitable habitat for […] special-status species such as Le Conte's thrasher (*Toxostoma lecontei*) […] is present within the project site and adjacent areas." The DEIR and its supporting documents lack details on survey methods used for Le Conte's thrasher—that is, if focused surveys for Le Conte's thrasher were conducted. The portion of the Project that was located within the East Indio Hills Conservation Area prior to the Like Exchange contains Other Conserved Habitat for Le Conte's thrasher. The Project is also located adjacent to Other Conserved Habitat for Le Conte's thrasher along the northern edge of the Project site. Because Le Conte's thrasher is "sparsely distributed and difficult to detect" (Hargrove, L. P. et al. 2020[6]), CDFW recommends that in addition to nesting bird surveys, focused surveys for Le Conte's thrasher are also conducted following methods outlined on pages 6-8 of the *LeConte's Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley* (Hargrove, L. P. et al. 2020[6]), which include broadcast of song and calls. To support the City in reducing impacts to Le Conte's thrasher to less than significant, CDFW recommends the City add the following mitigation measure to a revised DEIR:

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[6] Hargrove, L., P. Unitt, K. Ferree, K. Clark, and L. Squires. 2019 (Revised 2020). LeConte's Thrasher (*Toxostoma lecontei*) Status and Nest Site Requirements in the Coachella Valley. Report prepared for the Coachella Valley Conservation Commission. San Diego Natural History Museum, San Diego.

Mitigation Measure BIO-[A]: Le Conte's Thrasher

For all phases of the Project located within or adjacent to CVMSHCP-modeled Habitat for Le Conte's Thrasher and within any other suitable habitat for Le Conte's Thrasher identified within the Project area, Le Conte's thrasher focused surveys shall be performed by a qualified avian biologist prior to vegetation removal and ground-disturbing activities following methods outlined on pages 6-8 of the *LeConte's Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley* (Hargrove, L. P. et al. 2020), including the broadcast of song and calls by a qualified avian biologist with appropriate permitting. If active nests are found during the pre-construction nesting bird surveys, the qualified biologist shall inform CDFW and shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

4) Desert Tortoise

Consistent with CEQA Guidelines, Section 15380, the status of the desert tortoise as an endangered species pursuant to the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and a threatened species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. Page 9 of the Project's Biological Assessment indicates that the "habitat on the project site is moderately suitable for […] desert tortoise." Page 12 of the Biological Assessment further indicates "while impacts on desert tortoise and their habitat are covered through participation in the CVMSHCP (and pre-established mitigation measures), the USFWS Permit Conditions for the CVMSHCP require that the USFWS [U.S. Fish and Wildlife Service] be notified 45 days prior to the issuance of a grading permit to allow for the potential salvage of adult tortoises within the notification time period or that desert tortoise clearance surveys be conducted per USFWS protocol." A portion of the Project that was previously located within the East Indio Hills Conservation Area contains Other Conserved Habitat for desert tortoise under the CVMSHCP, and Other Conservation Habitat for desert tortoise is located adjacent to the Project site along parts of its northern boundary. CDFW adds that in addition to the requirement to notify the U.S. Fish and Wildlife Service, the CVMSHCP Section 9.6.1.4 also requires that "both inside and outside Conservation Areas, avoidance, minimization, and mitigation measures require relocation of individual

tortoises if required surveys locate individuals on the site of Covered Activities. For more information about avoidance, minimization, and mitigation measures see Section 4.4." Throughout all Phases of the Project, salvage is required for all desert tortoises identified within the Project impact areas.

The DEIR lacks the findings of focused surveys for desert tortoise or details on if focused surveys were conducted. Without the findings of focused surveys for desert tortoise following accepted protocols, the status of desert tortoise occupancy within the Project site is unknown. The DEIR includes Mitigation Measure BIO-1, which states that "prior to the issuance of a grading permit, the Project applicant will retain a qualified biologist to conduct preconstruction surveys for the desert tortoise." The proposed mitigation measure lacks important details on the protocols to be used for pre-construction surveys (e.g., width of transects), the areas where surveys will be conducted, or the timing of surveys. Without this information, CDFW considers Mitigation Measure BIO-1 to be inadequate in scope and timing to avoid or reduce impacts to desert tortoise to a level less than significant.

To support the City in avoiding or reducing impacts to desert tortoise to less than significant, CDFW recommends that the City revise Mitigation Measure BIO-1, with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-1: Desert Tortoise Surveys

For all phases of the Project located within or adjacent to CVMSHCP modeled habitat for desert tortoise and within any other suitable habitat for desert tortoise identified within the Project area, prior to commencing Project activities, a Quantitative Survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise (USFWS 2019; https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. If desert tortoise is found to be present, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.

For all phases of the Project located within or adjacent to CVMHCP modeled habitat for desert tortoise and within any other suitable habitat for desert tortoise identified within the Project area, no more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more, a qualified biologist shall conduct Quantitative Surveys for desert tortoise as

described in the USFWS 2019 desert tortoise survey methodology (*Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise*; https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf). Quantitative Surveys shall be completed using 10-meter-wide belt transects that provide 100-percent visual coverage for desert tortoise and their sign within the Project area and 50-foot buffer zone. Pre-activity surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the surveys, including data sheets, shall be submitted to CDFW and the USFWS prior to construction start. If the Quantitative Surveys confirm desert tortoise absence, the qualified biologist shall ensure desert tortoise do not enter the Project area where absence has been confirmed. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures. ~~Prior to the issuance of a grading permit, the Project applicant will retain a qualified biologist to conduct preconstruction surveys for the desert tortoise. If desert tortoise are found, the Project applicant shall notify the USFWS 45 days prior to the issuance of any grading permit to allow the USFWS to salvage adult tortoises. If the USFWS is not able to salvage desert tortoise, the Project applicant will salvage desert tortoise per current USFWS desert tortoise clearance survey protocol. Construction on the Project site would not occur until the tortoises are salvaged.~~

5) American Badger

American badger is a California Species of Special Concern. Table 4.3-2 of the DEIR indicates that American badger has a moderate potential to occur within the Project site. CDFW notes that the entire Project site contains predicted suitable habitat for American badger per California Wildlife Habitat Relationships range maps, accessed using CDFW's Biogeographic Information and Observation System. Page 5 of the Project's Biological Resources Assessment (Biological Assessment), dated April 2020, indicates that "in April and May 2019, RBC biologists conducted vegetation mapping, habitat assessments, and a general biological survey within the project site." The Biological Assessment lacks information on the protocols used to conduct surveys for American badger and if focused surveys were conducted for this species. Also note that CDFW generally considers field assessments for wildlife to be valid for a one-year period; CDFW considers the surveys conducted in 2019 for wildlife to be outdated. The DEIR also lacks a mitigation measure for American badger. Without the results of recent surveys and appropriate avoidance, minimization, and mitigation measures for American badger, CDFW considers that the DEIR has not avoided or reduced potential impacts to American badger to a level less than significant. Further, given the DEIR's lack of an assessment of biological resources and impacts associated with American

badger, CDFW is limited in its ability to provide biological expertise to support the City in reducing impacts to American badger to a level less than significant. CDFW recommends that the DEIR is revised to include the results of focused surveys for American badger within the entire Project site and surrounding area.

To support the City in avoiding or reducing impacts to American badger to a level less than significant, CDFW recommends the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[B]: American Badger

No more than 30 days prior to the beginning of ground disturbance and/or construction activities for all Phases of the Project, a qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present in the Project area. Surveys shall encompass both the Project site and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation), to determine the presence or absence of individuals, dens, and sign. If American badger burrows are located, the City and Project proponent shall have a qualified biologist(s) monitor the burrows using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the burrow. If non-natal active dens can be avoided and buffered from Project activities, the biologist shall flag a minimum 100-foot disturbance-free buffer zone. A minimum 500-foot disturbance-free buffer shall be placed around the natal den and maintained until juvenile independence is determined by the biologist. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Established buffers shall remain until the biologist determines the young have dispersed or the den is no longer active, or until Project activities cease. If American badger is proposed to be relocated from an active den or an active den will be impacted, an exclusion plan, including compensatory mitigation, shall be prepared for CDFW review and approval that will be performed outside of breeding season and after juvenile dispersal.

6) Desert Kit Fox

Desert kit fox is protected as a fur-bearing mammal under Title 14 of the California Code of Regulations (Chap. 5, §460) and may not be taken at any time. The DEIR lacks a discussion of the potential for desert kit fox to occur within the Project site. CDFW notes that the entire Project site contains predicted suitable habitat for desert kit fox per California Wildlife Habitat Relationships range maps, accessed using CDFW's Biogeographic Information and Observation System. CDFW considers that the DEIR has not avoided or reduced potential impacts to desert kit fox to a level less than significant. CDFW recommends the DEIR is revised to include a discussion of the potential for desert kit fox to occupy the Project site and appropriate avoidance,

minimization, and mitigation measures. Because desert kit fox has high fidelity to natal dens, it is crucial to adequately assess whether desert kit fox is present on the Project site well in advance of commencing Project activities. If desert kit fox is found on-site during breeding season, it could delay Project activities until appropriate vegetation and construction buffers can be established on the Project site. Further, given the DEIR's lack of an assessment of biological resources and impacts associated with desert kit fox, CDFW is limited in its ability to provide biological expertise to support the City in reducing impacts to desert kit fox to a level less than significant. CDFW recommends that the DEIR is revised to include an assessment of biological resources and impacts associated with desert kit fox within the entire Project site and surrounding area.

To support the City in avoiding or reducing impacts to desert kit fox to a level less than significant, CDFW recommends the following mitigation measure is added to a revised DEIR:

Mitigation Measure BIO-[C]: Desert Kit Fox Surveys

For all Phases of the Project, preconstruction surveys for desert kit fox shall be conducted by a qualified biologist(s) within 14 days prior to the start of construction. The survey area shall include the Project area plus a 500-foot buffer during the breeding season (January 15 through August 31 or until pups are foraging on their own) and a 250-foot buffer outside the breeding season. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffer using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. Potentially occupied burrows in the Project area and the survey buffer shall be mapped, and the qualified biologist(s) shall utilize daily on-site monitoring, tracking stations, and wildlife cameras to determine whether the burrows are occupied. If a burrow is determined to be occupied by desert kit fox during the breeding season, the burrow shall be demarcated with a 500-foot buffer. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Burrows determined to be unoccupied shall be demarcated with a 50-foot buffer. If occupied burrows are found in Project disturbance areas and cannot be avoided, the City and Project proponent shall consult with CDFW on an appropriate path forward. The loss of desert kit fox habitat shall be mitigated at no less than a 2:1 ratio.

7) Ringtail

Consistent with CEQA Guidelines, Section 15380, the status of the ringtail as a Fully Protected species (Fish & G. Code § 4700) qualifies it as an endangered, rare, or threatened species under CEQA. The DEIR lacks a discussion of the potential for

ringtail to occur within the Project site. The entire Project site contains predicted suitable habitat for ringtail per California Wildlife Habitat Relationships range maps, accessed using CDFW's Biogeographic Information and Observation System. Without plans for surveys for ringtail and other appropriate avoidance, minimization, and mitigation measures, CDFW considers that the DEIR has not avoided or reduced potential impacts to ringtail to a level less than significant. Further, given the DEIR's lack of an assessment of biological resources and impacts associated with ringtail, CDFW is limited in its ability to provide biological expertise to support the City in reducing impacts to ringtail to a level less than significant. CDFW recommends that the DEIR is revised to include an assessment of biological resources and impacts associated with ringtail within the entire Project site and surrounding area.

To support the City avoiding or reducing impacts to ringtail to a level less than significant, CDFW recommends the following mitigation measure is added to a revised DEIR:

Mitigation Measure BIO-[D]: Ringtail Surveys

For all Phases of the Project, no more than 30 days prior to the beginning of ground disturbance and/or construction activities, a qualified biologist(s) shall conduct surveys to determine if potential ringtail burrows are present in the Project area. Surveys shall encompass both the Project area and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. If potential burrows are located, they shall be monitored by the qualified biologist(s) using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the den. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. A minimum 500-foot disturbance-free buffer shall be placed around any natal den and maintained until juvenile independence is determined by the qualified biologist(s). No disturbance of active dens shall take place when juveniles may be present and dependent on parental care. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. If occupied burrows are found in Project disturbance areas and cannot be avoided, the City and Project proponent shall consult with CDFW on an appropriate path forward. The loss of ringtail habitat shall be mitigated at no less than a 2:1 ratio.

8) Special-Status Plants

Table 4.3-2 of the DEIR indicates that the following special-status plants have a moderate or greater potential to occur within the Project site: California ayenia (*Ayenia compacta*), California ditaxis (*Ditaxis serrata* var. *californica*), Coves' cassia (*Senna covesii*), Glandular ditaxis (*Ditaxis claryana*), gravel milk-vetch (*Astragalus sabulonum*),

jackass clover (*Wislizenia refracta* ssp. *refracta*), narrow-leaf sandpaper-plant (*Petalonyx linearis*), and slender cottonheads (*Nemacaulis denudata* var. *gracillis*).

Page 5 of the Project's Biological Assessment indicates that "in April and May 2019, RBC biologists conducted vegetation mapping, habitat assessments, and a general biological survey within the project site." The Biological Assessment lacks information on the protocols used to conduct surveys for special-status plants. Note that CDFW generally considers a field assessment for rare plants to be valid for a period of up to three years; therefore, CDFW considers the findings from plant surveys in 2019 to be outdated. If the presence of special-status plant species is not determined through recent floristic-based surveys, unauthorized take or disturbance of special-status plant species (not covered by the CVMSHCP) could occur. Without the findings of recent surveys for special-status plants following appropriate protocols, and appropriate avoidance, minimization, and mitigation measures, CDFW considers that the DEIR has not avoided or reduced impacts to special-status plants to a level less than significant. Further, without the findings of a thorough, recent, floristic-based assessment of special status plants, CDFW also concludes that the DEIR lacks sufficient information for a meaningful review of impacts to biological resources. CDFW recommends the DEIR is revised to include the findings of a recent, thorough, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see https://wildlife.ca.gov/Conservation/Plants) and appropriate avoidance, minimization, and mitigation measures.

To support the City in avoiding or reducing impacts to special-status plants to a level less than significant, CDFW recommends the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[E]: Special-Status Plants

For all Phases of the Project, prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see https://wildlife.ca.gov/Conservation/Plants), shall be performed by a qualified biologist within the Project area. Should any state-listed plant species (excluding CVMSHCP Covered Species) be present in the Project area, the Project proponent shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law (excluding CVMSHCP Covered Species) be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail in a plan submitted to CDFW for approval. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.

9) CDFW Lake and Streambed Alteration (LSA) Program

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

Page 4.3-44 of the DEIR states that “there are 637.37 acres of CDFW streambed and 0.20 acre of riparian vegetation within the Project survey area.” Page 4.3.45 of the DEIR indicates that “the Project applicant would need to obtain permits through the USACE, RWQCB, and CDFW for impacts on jurisdictional aquatic resources.” To document this requirement to notify CDFW through its Lake and Streambed Alteration Program, CDFW recommends the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[F]: Lake and Streambed Alteration Program

Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, *or* the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

10) Coachella Valley Multiple Species Habitat Conservation Plan

Local Development Mitigation Fee

The Project is located within the CVMSHCP Plan Boundary and contains habitat for Covered Species and/or conserved natural communities. Per CVMSHCP Section 5.2.1.1 and IA Sections 12.2.1 and 13.2, the City is obligated to impose a local development mitigation fee for new development within the Plan Area that impacts vacant land containing Habitat for Covered Species and/or conserved natural communities, including small vacant lots within urban areas that contain natural open space, and to transmit collected fees to CVCC at least quarterly and prior to impacts to Covered Species and their Habitats. To document the City’s obligation to impose and transmit a Local Development Mitigation Fee for the Project, CDFW recommends the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[G]: CVMSHCP Local Development Mitigation Fee

Prior to construction and issuance of any grading permit, the City shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee and transfer of revenues to the Coachella Valley Conservation Commission.

Salvage of Sand-Dependent Covered Species

Section 6.6.1 of the CVMSHCP (Obligations of Local Permittees) states that within and outside Conservation Areas "on parcels approved for Development, the Permittees shall encourage the opportunity to salvage Covered sand-dependent species in accordance with the Implementation Manual." The portion of the Project that was previously located within the East Indio Hills Conservation Area contains CVMSHCP modeled habitat for Palm Springs pocket mouse (*Perognathus longimembris bangsi*), Palm Springs round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*), and flat-tailed horned lizard (*Phrynosoma mcallii*). To be consistent with CVMSHCP requirements, CDFW recommends that the City include in a revised DEIR the following mitigation measure:

Mitigation Measure BIO-[H]: Salvage of Sand-Dependent Covered Species

For all Phases of the Project, prior to impending vegetation removal or ground-disturbing activities, the City will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.

11) Artificial Nighttime Lighting

Page 3-45 of the DEIR states that the Project will artificial nighttime lighting along "multi-use paths, walkways, and other areas used by pedestrians and bicyclists should be provided except in natural open space areas," and that "lighting should minimize uncontrolled nighttime light and glare, light trespass, and night sky pollution with low brightness lighting fixtures utilizing warm, color corrected light sources and appropriate beam cut-off." The DEIR lacks an analysis of direct, indirect, and cumulative impacts of artificial nighttime lighting, including impacts associated with long-term operations, on biological resources including migratory birds that fly at night, burrowing owls, bats, and other nocturnal and crepuscular wildlife. The Project is located adjacent to vacant, open-space areas to the north and east of the Project site—areas that provide suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, burrowing owls, bats, and other nocturnal and crepuscular wildlife. The Project's proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in these vacant areas adjacent to the Project site. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection

of resources and natural enemies; and navigation.[7] Many species use photoperiod cues for communication (e.g., bird song[8]), determining when to begin foraging,[9] behavioral thermoregulation,[10] and migration.[11] Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.[10]

CDFW recommends that the DEIR is revised to include an analysis of the direct, indirect, and cumulative impacts of artificial nighttime lighting associated with the Project's long-term operations on biological resources, and appropriate avoidance, minimization, and mitigation measures that will avoid or reduce impacts to less than significant.

To support the City in avoiding, minimizing, and mitigating for the Project's direct and indirect impacts of artificial nighttime lighting on biological resources, CDFW recommends that the City include in a revised DEIR the following mitigation measure:

Mitigation Measure BIO-[I]: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of the Project, the City shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The City shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

12) Landscaping

Page 3-43 of the DEIR states that the "plant palette proposed for the Project identifies appropriate plant types that have low water requirements, minimize turf, and provide

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[7] Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. 2013. The ecological impacts of nighttime light pollution: a mechanistic appraisal. Biological Reviews, 88.4: 912-927.
[8] Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. The Condor 108:130–139.
[9] Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. Current Biology 19:1123–1127.
[10] Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. Ecology 58:98–108.
[11] Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. Frontiers in Ecology and the Environment 2:191–198.

shade, and which reduce the urban heat island effect." The Project proposes the use of a mixture of native and non-native trees and shrubs, as listed in Tables 4-1, 4-2, and 4-3 of the DEIR. CDFW recommends that the DEIR include recommendations regarding landscaping from Section 4.0 of the CVMSHCP "Table 4-112: Coachella Valley Native Plants Recommended for Landscaping" (pp. 4-180 to 4-182; https://cvmshcp.org/plan-documents/). CDFW also recommends incorporation of water-wise concepts in any Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants. More information on native plants suitable for the Project location and nearby nurseries is available at Calscape: https://calscape.org/. Local water agencies/cities and resource conservation cities in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: https://saveourwater.com/.

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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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 to assist City in identifying and mitigating Project impacts to biological resources. CDFW concludes that the DEIR does not adequately identify or mitigate the Project's significant, or potentially

significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information for a meaningful review of impacts to biological resources, including a complete assessment of biological resources for burrowing owl, American badger, desert kit fox, ringtail, and special-status plants. CDFW recommends that a revised DEIR, including a complete assessment of biological resources for burrowing owl, American badger, desert kit fox, ringtail, and special-status plants be recirculated for public comment. The CEQA Guidelines indicate that recirculation is required when insufficient information in the DEIR precludes a meaningful review (§ 15088.5). CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised DEIR.

CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at jacob.skaggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Kim Freeburn
84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
Mitigation Measure BIO-3: Nesting Birds **To the greatest extent feasible, the Project, including each of its Phases and the Off-Site Improvement Areas, will avoid construction activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to impending vegetation removal or ground-disturbing activities for all Phases of the Project. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to**	**Timing:** No more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all phases of the Project. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

stop work if nesting pairs exhibit signs of disturbance.		
Mitigation Measure BIO-2: Burrowing Owl Focused and Pre-Construction Surveys **Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities, for all phases of the Project including the Off-Site Construction Improvement Areas. CDFW strongly recommends that focused surveys are conducted in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version)[12]. For all phases of the Project, if burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the *Staff Report on Burrowing Owl Mitigation*, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be**	**Timing: Focused surveys:** Consistent with timing in Appendix D of the Staff Report on Burrowing Owl Mitigation and prior to commencement of any Project activities, including vegetation- or ground-disturbing activities for all phases of the Project. **Pre-construction surveys:** No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance for all phases of the Project and when there is a pause in construction of more than 30 days. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

[12] California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843.

indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the *Staff Report on Burrowing Owl Mitigation* under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities, for all Phases of the Project. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, appropriate NCCP (Fish and Game Code section 2835) or CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities. **For all phases of the Project, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not**		

recommence until consultation with CDFW and USFWS is completed.		
Mitigation Measure BIO-[A]: Le Conte's Thrasher **For all phases of the Project located within or adjacent to CVMSHCP-modeled Habitat for Le Conte's Thrasher and within any other suitable habitat for Le Conte's Thrasher identified within the Project area, Le Conte's thrasher focused surveys shall be performed by a qualified avian biologist prior to vegetation removal and ground-disturbing activities following methods outlined on pages 6-8 of the *LeConte's Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley* (Hargrove, L. P. et al. 2020[4]), including the broadcast of song and calls by a qualified avian biologist with appropriate permitting. If active nests are found during the pre-construction nesting bird surveys, the qualified biologist shall inform CDFW and shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has**	**Timing:** Prior to vegetation removal and ground-disturbing activities. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

the authority to stop work if nesting pairs exhibit signs of disturbance.		
Mitigation Measure BIO-1: Desert Tortoise Surveys **For all phases of the Project located within or adjacent to CVMSHCP modeled habitat for desert tortoise and within any other suitable habitat for desert tortoise identified within the Project area, prior to commencing Project activities, a Quantitative Survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise (USFWS 2019; https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. If desert tortoise is found to be present, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.** **For all phases of the Project located within or adjacent to CVMHCP modeled habitat for desert tortoise and within any other suitable habitat for desert tortoise identified within the Project area, no more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting**	**Timing:** See Mitigation Measure **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

30 days or more, a qualified biologist shall conduct Quantitative Surveys for desert tortoise as described in the USFWS 2019 desert tortoise survey methodology (*Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise*; https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf). Quantitative Surveys shall be completed using 10-meter-wide belt transects that provide 100-percent visual coverage for desert tortoise and their sign within the Project area and 50-foot buffer zone. Pre-activity surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the surveys, including data sheets, shall be submitted to CDFW and the USFWS prior to construction start. If the Quantitative Surveys confirm desert tortoise absence, the qualified biologist shall ensure desert tortoise do not enter the Project area where absence has been confirmed. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.		
Mitigation Measure BIO-[B]: American Badger **No more than 30 days prior to the beginning of ground disturbance and/or construction activities for all Phases of the Project, a qualified biologist(s) shall conduct surveys to determine if potential American badger**	**Timing:** No more than 30 days prior to the beginning of ground disturbance and/or construction activities.	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

burrows are present in the Project area. Surveys shall encompass both the Project site and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation), to determine the presence or absence of individuals, dens, and sign. If American badger burrows are located, the City and Project proponent shall have a qualified biologist(s) monitor the burrows using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the burrow. If non-natal active dens can be avoided and buffered from Project activities, the biologist shall flag a minimum 100-foot disturbance-free buffer zone. A minimum 500-foot disturbance-free buffer shall be placed around the natal den and maintained until juvenile independence is determined by the biologist. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Established buffers shall remain until the biologist determines the young have dispersed or the den is no longer active, or until Project activities cease. If American badger is proposed to be relocated from an active den or an active den will be impacted, an exclusion plan, including compensatory mitigation, shall be prepared for CDFW review and approval that will be performed outside of breeding season and after juvenile dispersal.	**Methods:** See Mitigation Measure	
Mitigation Measure BIO-[C]: Desert Kit Fox Surveys **For all Phases of the Project, preconstruction surveys for desert kit fox shall be conducted by a qualified biologist(s) within 14 days prior to the start**	**Timing:** Within 14 days prior to the start of construction. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

of construction. The survey area shall include the Project area plus a 500-foot buffer during the breeding season (January 15 through August 31 or until pups are foraging on their own) and a 250-foot buffer outside the breeding season. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffer using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. Potentially occupied burrows in Project area and the survey buffer shall be mapped, and the qualified biologist(s) shall utilize daily on-site monitoring, tracking stations, and wildlife cameras to determine whether the burrows are occupied. If a burrow is determined to be occupied by desert kit fox during the breeding season, the burrow shall be demarcated with a 500-foot buffer. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care. If a burrow is determined to be occupied outside the breeding season it shall be demarcated with a 250-foot buffer. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Burrows determined to be unoccupied shall be demarcated with a 50-foot buffer. If occupied burrows are found in Project disturbance areas and cannot be avoided, the City and Project proponent shall consult with CDFW on an appropriate path forward. The loss of desert kit fox habitat shall be mitigated at no less than a 2:1 ratio.		
Mitigation Measure BIO-[D]: Ringtail Surveys **For all Phases of the Project, no more than 30 days prior to the beginning of ground disturbance and/or construction activities, a**	**Timing:** No more than 30 days prior to the beginning of ground disturbance and/or	**Implementation**: City of Coachella and Project Proponent

qualified biologist shall conduct surveys to determine if potential ringtail burrows are present in the Project area. Surveys shall encompass both the Project area and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation), to determine the presence or absence of individuals, dens, and sign. If potential burrows are located, they shall be monitored by the qualified biologist(s) using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the den. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. A minimum 500-foot disturbance-free buffer shall be placed around any natal den and maintained until juvenile independence is determined by the qualified biologist(s). No disturbance of active dens shall take place when juveniles may be present and dependent on parental care. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. If occupied burrows are found in Project disturbance areas and cannot be avoided, the City and Project proponent shall consult with CDFW on an appropriate path forward. The loss of ringtail habitat shall be mitigated at no less than a 2:1 ratio.	construction activities. **Methods:** See Mitigation Measure	**Monitoring and Reporting**: City of Coachella
Mitigation Measure BIO-[E]: Special-Status Plants **For all Phases of the Project, prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native**	**Timing:** Prior to Project construction activities. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

Plant Populations and Sensitive Natural Communities (see https://wildlife.ca.gov/Conservation/Plants), shall be performed by a qualified biologist within the Project area. Should any state-listed plant species (excluding CVMSHCP Covered Species) be present in the Project area, the Project proponent shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law (excluding CVMSHCP Covered Species) be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail in a plan submitted to CDFW for approval. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.		
Mitigation Measure BIO-[F]: Lake and Streambed Alteration Program **Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, *or* the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**	**Timing:** Prior to construction or issuance of any grading permit. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella
Mitigation Measure BIO-[G]: CVMSHCP Local Development Mitigation Fee	**Timing:** Prior to construction or	**Implementation**: City of Coachella and Project Proponent

Prior to construction and issuance of any grading permit, the City shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee and transfer of revenues to the Coachella Valley Conservation Commission.	issuance of any grading permit. **Methods:** See Mitigation Measure	**Monitoring and Reporting**: City of Coachella
Mitigation Measure BIO-[H]: Salvage of Sand-Dependent Covered Species **For all Phases of the Project, prior to impending vegetation removal or ground-disturbing activities, the City will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.**	**Timing:** Prior to impending vegetation removal or ground-disturbing activities. **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella
Mitigation Measure BIO-[I]: Artificial Nighttime Lighting **Throughout construction and the lifetime operations of the Project, the City shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The City shall ensure**	**Timing:** Throughout construction and the lifetime operations of the Project **Methods:** See Mitigation Measure	**Implementation**: City of Coachella and Project Proponent **Monitoring and Reporting**: City of Coachella

use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.		