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Sent via email

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Highway 111 Corridor Specific Plan and Development Code Project (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2025050964

Dear Cheri Flores:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from the City of La Quinta (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

¹CEQA 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.

activities that have the potential to adversely affect fish and wildlife resources.

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: City of La Quinta

Objective: The Project proposes the development of a Highway 111 Corridor Specific Plan and Highway 111 Development Code. The Highway 111 Corridor (Corridor) consists of a roughly two-mile stretch of businesses located along the La Quinta portion of Highway 111, between Washington and Jefferson Streets. The Highway 111 Development Code is a land use policy that establishes development standards for the Corridor's expansion, incorporating location-specific guidelines like active frontage, and offering detailed information on qualifying uses, as well as additional requirements and permissions for future growth. The MND has been prepared in accordance with CEQA to provide a programmatic-level review of potential environmental impacts associated with the proposed Highway 111 Corridor Specific Plan and provides guidance for implementing development within the Project area.

Economically feasible buildout under the Specific Plan could result in the following additional square footages (sf):

- Residential: 1,464,000 to 1,837,000 sf
- Retail: 107,000 to 194,000 sf
- Office: 82,000 sf
- Hotel: 150,000 to 250,000 sf

The proposed Highway 111 Corridor Specific Plan would enable proposed future projects to consider this impact analysis when evaluating their potential environmental impacts. As a programmatic-level document, however, this CEQA analysis is not anticipated to provide sufficient detail to fully address the project-specific impacts of all future development. It is anticipated that additional environmental technical studies or CEQA documentation may be needed for future projects. It is anticipated that CEQA compliance for future projects would be tiered from this document.

Location: The Project is located along Highway 111 within the City of La Quinta, California, in the County of Riverside. The Project encompasses two miles along Highway 111 between Washington Street on the west, Jefferson Street on the east, the Whitewater Wash on the north, and Avenue 48 on the south. The Project area is just over approximately 410 acres (~0.64 square miles).

Timeframe: The MND proposes build-out of projects over the course of 20 to 25 years.

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 MND 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 MND are explained in greater detail below and summarized here. CDFW is concerned that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW requests that additional information and analyses be added to a revised MND, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to a level less than significant.

Existing Environmental Setting

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 MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND may provide an incomplete analysis of Project-related environmental impacts.

The MND lacks a complete and appropriate assessment of biological resources within the Project site and surrounding area specifically as it relates special-status species (see Assessment of Biological Resources Section), burrowing owl (*Athene cunicularia*), and the Lake and Streambed Alteration Program. 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 an MND include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the MND 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 revising the mitigation measure for burrowing owl, nesting birds, and artificial nighttime lighting, and adding mitigation measures for an assessment of biological resources and, as it relates to a the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), the local development mitigation fee and salvage of sand-dependent covered species.

1) *Assessment of Biological Resources*

Page 1-2 of the MND states that the “proposed Highway 111 Corridor Specific Plan would enable proposed future projects to consider this impact analysis when evaluating their potential environmental impacts. Where sufficiently addressed herein, future development may be considered ‘within the scope’ of this environmental analysis. As a programmatic-level document, however, this CEQA analysis is not anticipated to provide sufficient detail to fully address the project-specific impacts of all future development. Indeed, it is anticipated that additional environmental technical studies or CEQA documentation may be needed for future projects once sufficient details are known. In such cases, the necessary environmental studies and documentation may be conducted at the time of proposal. It is anticipated that CEQA compliance for future projects would be tiered from this document.” CDFW is concerned about the adequacy of analysis in this MND to establish baseline conditions for biological resources, identify impacts to biological resources, and determine appropriate avoidance, minimization and mitigation measures for development projects covered in this MND. For example, page 3 of the Technical Memorandum, dated May 8, 2023 (Special-Status Species Report), for the MND did not include any protocol-level surveys for special-status wildlife. Also, note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Given the uncertainty in timelines for the implementation of the various projects covered in this MND (over a period of 20-25 years per page 3-89 of the MND)—and the ability for biological resources to change during intervening periods—CDFW recommends that additional assessments of biological resources, including, but not limited to, focused surveys for special-status species that have the potential to occur on these project sites, are conducted and the results circulated to the public in subsequent CEQA documentation to establish environmental baselines, inform avoidance, minimization, and mitigation measures, and allow CDFW to conduct a meaningful review and provide appropriate biological expertise.

To ensure impacts to biological resources associated with the projects covered in this MND are adequately assessed and reduced to a level less than significant, CDFW recommends the following mitigation measure is added to a revised MND:

Mitigation Measure BIO-[A]: Assessment of Biological Resources

Prior to Project construction activities for all projects covered in this MND, a complete and recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for recommended revisions to MM BIO-3, MM BIO-4, MM BIO-5 and CDFW-recommended MM BIO-[A], MM BIO-[B], and MM BIO-[C].

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.

Pages 3-16 of the MND indicates that "the entire Project area may support migratory and nesting birds." CDFW concurs that all the project locations covered in this MND contain habitat for nesting birds due to the presences of shrubs on the undeveloped vacant parcels and presence of landscaping trees and shrubs in the developed parcels. Although the MND includes Mitigation Measure BIO-3 for nesting birds, CDFW considers the measure inadequate in scope to reduce impacts to nesting birds to a level less than significant. For example, CDFW considers proposed buffer distances for burrowing owls, 160 feet during the non-breeding season and 250 feet during the breeding season, to be inadequate. (See Burrowing Owl Section below for a burrowing owl-specific measure recommended by CDFW.)

To support the City in reducing impacts to nesting birds to a level less than significant for all projects covered in the MND, CDFW recommends that the City revise Mitigation Measure BIO-3 with the following additions in **bold** and removals in ~~striketrough~~:

Mitigation Measure BIO-3: Nesting Birds

Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities for all projects covered in this MND. 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. ~~Potential Project impacts to six special status birds and common birds protected by the MBTA and FGC during construction may include visual disturbance,~~

~~habitat destruction, and noise disturbance. The following measures are proposed to avoid potential impacts. Construction should be conducted, if possible, during the fall and/or winter months and outside of the avian nesting season (generally February 1– August 31) to avoid any direct effects to protected birds.~~

~~A qualified ornithologist should conduct pre-construction surveys within the vicinity of the Project area to check for nesting or burrowing activity of native birds and to evaluate the site for presence of raptors and special status bird species. The ornithologist should conduct at minimum a one-day pre-construction survey within the seven-day period prior to construction activities beginning. If construction work lapses for seven days or longer during the breeding season, a qualified ornithologist should conduct a supplemental avian pre-construction survey before Project work is reinitiated.~~

~~If active nests or burrows are detected within the construction footprint or up to 500 feet from construction activities, the ornithologist should flag a buffer around each nest (assuming property access). Construction activities should avoid nest or burrow sites until the ornithologist determines that the young have fledged or nesting activity has ceased. If nests or burrows are documented outside of the construction (disturbance) footprint, but within 500 feet of the construction area, buffers would be implemented as needed (buffer size dependent on species). Buffer sizes for common species would be determined on a case-by-case basis in consultation with the CDFW and, if applicable, with USFWS. Buffer sizes would consider factors such as:~~

- ~~1. Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity;~~
- ~~2. Distance and amount of vegetation or other screening between the construction site and the nest; and~~
- ~~3. Sensitivity of individual nesting species and behaviors of the nesting birds. If active nests or burrows are detected during the survey, the qualified ornithologist should monitor all nests or burrows at least once per week to determine whether birds are being disturbed.~~

~~Activities that might, in the opinion of the qualified ornithologist, disturb nesting activities (e.g., excessive noise), should be prohibited within the buffer zone until such a determination is made. If signs of disturbance or distress are observed, the qualified ornithologist should immediately implement adaptive measures to reduce disturbance. These measures may include, but are not limited to, increasing buffer size, halting disruptive construction activities in the vicinity of the nest until fledging is confirmed or nesting activity has ceased, placement of visual screens or sound dampening structures between the nest and construction activity, reducing speed limits, replacing and updating noisy equipment, queuing trucks to distribute idling noise, locating vehicle access points and loading and shipping facilities away from noise-sensitive receptors, reducing the number of noisy construction activities occurring simultaneously, and/or~~

~~reorienting and/or relocating construction equipment to minimize noise at noise-sensitive receptors.~~

~~If Burrowing Owls are detected, buffers following guidance from Section 4 of the CHMSHCP would be adopted. The buffer distance during the non-breeding season is 160 feet, and 250 feet during the breeding season. Buffers would be staked and flagged. No Project work would be permitted within the established buffered distances. No development or operation and maintenance activities would be permitted within the buffer until the young are no longer dependent on the burrow. If the burrow is unoccupied, the burrow could be made inaccessible to owls, and the Covered Activity may proceed.~~

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 create the CVMSHCP, and the IA, including compliance with laws that protect burrowing owls.

Page 1-2 of the MND states that “as a programmatic-level document, however, this CEQA analysis is not anticipated to provide sufficient detail to fully address the project-specific impacts of all future development. Indeed, it is anticipated that additional environmental technical studies or CEQA documentation may be needed for future projects once sufficient details are known.” CDFW agrees that a project-specific analysis of impacts to burrowing owl, which is needed to inform project-specific avoidance, minimization, and mitigation measures, is necessary for each of the projects covered in the MND that contain suitable habitat for burrowing owl. Page 19 of the Project's Special-Status Species Report indicates that burrowing owl have a moderate potential to occur for projects covered in the MND. CDFW agrees that the project areas that contain vacant land, including but not limited to potential development areas ADN-01, DJN-1, DJS-1, WAS-01, and ADS-2 have suitable habitat for burrowing owl. Also, potential development areas ADN-01, DJN-1, WAN-02, and WAN-01 are located adjacent to the Whitewater River, which provides suitable habitat for burrowing owl. Page 19 of the Special-Status Species Report states that the “nearest records on the CNDDDB are approximately three miles away, and are from 1927 to 2007 (CDFW 2022).” CDFW adds that unprocessed data from the California Natural Diversity Database include three recent observations, between 2021 and 2023, of burrowing owl using burrows within 0.25 miles of Project site to the east in a channel associated with the Whitewater River. Page 3 of the Biological Report indicates that a reconnaissance field survey was conducted on February 4, 2023, and that “no protocol-level surveys for wetlands, SNCs, special status plants, or wildlife were conducted.” A habitat assessment and focused surveys for burrowing owls have not been conducted for the projects covered in this MND. Given the MND's lack of findings from a habitat assessment and recent focused surveys for burrowing owl following the guidelines in the *Staff Report on Burrowing Owl Mitigation*, the number and locations of suitable and occupied burrows within the project areas covered in this MND are unknown. Given the lack of results from a habitat assessment and focused surveys 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 for the projects covered in this MND. CDFW recommends a habitat assessment and focused surveys for burrowing owl are conducted for all of the projects covered in this MND and that the survey results, including survey reports, are provided in subsequent CEQA environmental review documents for the public and CDFW to review.

The MND includes a general Mitigation Measure BIO-4 to be applied across projects covered in the MND. CDFW finds Mitigation Measure BIO-4 to be insufficient in scope and timing to reduce impacts to burrowing owl to a level less than significant. For example, Mitigation Measure BIO-4 indicates that burrowing owl relocation may be implemented by the Project (page 3-20). Burrowing owl relocation is considered a potentially significant impact under CEQA and should only be considered as a last resort, after all other options have been evaluated. Burrowing owl relocation (i.e., eviction/passive and active relocation) can result in take of burrowing owl individuals, nests, and eggs, which is not authorized under the CVMSHCP. Consultation with CDFW is warranted to determine if an Incidental Take Permit is necessary to avoid a violation of Fish and Game code section 2080.

CDFW recommends that the City revise general Mitigation Measure BIO-4 with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-4: Burrowing Owl Habitat Assessment and Focused and Pre-Construction Surveys

No less than 60 days prior to the start of Project-related activities for all projects covered in the MND, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012 or most recent version) for all projects covered under the MND.

If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version) prior to vegetation removal or ground-disturbing activities. 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 prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site 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), acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, appropriate CESA authorization (i.e., Incidental Take Permit

under Fish and Game Code section 2081) should be obtained from CDFW prior to commencement of Project activities.

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 should be performed by a 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. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities. Prior to the start of Project activities, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.

~~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* (CDFG 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidance provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities.~~

3) Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: divert or obstruct the natural flow of any river, stream, or lake; change the bed, channel, or bank of any river, stream, or lake; use material from any river, stream, or lake; or deposit or dispose of material 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.

The MND is a programmatic-level document, and it is anticipated that additional environmental technical studies or CEQA documentation may be needed for future projects associated with this MND once sufficient details are known (page 1-2 of the MND). Four of the projects covered in this MND are located adjacent to the Whitewater River, including potential development areas WAN-01, WAN-02, ADN-01, and DJN-1. Page 4 of the Biological Assessment indicates that the "Project does not involve alteration of the Whitewater River, including the channel and floodplain. There will be no impact to the Whitewater River or jurisdictional wetlands." CDFW is concerned about the validity of this conclusion that projects adjacent to the Whitewater River will have not impacts on fish and wildlife resources subject to Fish and Game Code section 1600 et seq. CDFW notes that the MND lacks details on design plans for projects covered in the MND, and that project-specific design plans are needed to inform if projects will result in impacts on fish and wildlife resources subject to Fish and Game Code section 1600 et seq. The MND includes Mitigation Measure BIO-6, indicating that "prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from 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." Importantly, CDFW notes that the MND does not provide information on the projects for which this measure would apply. CDFW recommends that the MND is revised to indicate that for all projects covered in this MND, subsequent CEQA documentation will include a project-specific analysis of potential impacts to fish and wildlife resources subject to Fish and Game Code section 1600 et seq. to inform if a notification of lake or streambed alteration needs to be submitted to CDFW.

4) Coachella Valley Multiple Species Habitat Conservation Plan

Local Development Mitigation Fee

The Project is located within the CVMSHCP Plan Boundary and outside of a Conservation Area and contains habitat for Covered Species and/or conserved natural communities. Page 3-16 of the MND states that the "according to the CVMSHCP, authorization of take for all species with a moderate potential to occur, except the six bird species, can be obtained through compliance with the CVMSHCP and the Local

Development Mitigation Fee (LDMF) paid to the Coachella Valley Conservation Commission". 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 projects covered in this MND, CDFW recommends the City add the following mitigation measure to a revised MND:

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

Prior to construction and issuance of any grading permit for all projects covered in the MND, 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 fees, at least quarterly and prior to impacts to Covered Species and their Habitats, 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." Page 3-18 of the MND indicates that "Wildlife species covered by the CVMSHCP that have a moderate potential to occur include Palm Springs Round-tailed Ground Squirrel [(*Xerospermophilus tereticaudus chlorus*)], Burrowing Owl, Flat-tailed Horned Lizard [(*Phrynosoma mcallii*)], Coachella Valley Fringe-tailed Lizard [(*Uta inornata*)], and the Coachella Giant Sand Treader Cricket [(*Macrobaenetes valgum*)]." The Project areas including potential development area DJS-1 contain CVMSHCP modeled habitat for Coachella Valley fringe-toed lizard. To be consistent with CVMSHCP requirements, CDFW recommends that the City include in a revised MND the following mitigation measure:

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

Prior to vegetation removal or ground-disturbing activities, for all project areas covered in the MND that contain suitable habitat for sand-dependent Covered Species, 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.

5) *Artificial Nighttime Lighting*

Several of the projects associated with this MND are located adjacent to the Whitewater River, an area that provides suitable burrowing, nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, and other nocturnal and crepuscular wildlife. 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.² Many species use photoperiod cues for communication (e.g., bird song³), determining when to begin foraging,⁴ behavioral thermoregulation,⁵ and migration.⁶ Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.¹⁰

Page 3-3 of the MND indicates that “future development facilitated by the Specific Plan may include low-impact lighting fixtures and reflective surfaces that are designed to reduce brightness, which would enhance visual comfort and safety without contributing to light pollution.” The MND includes Mitigation Measure BIO-5, requiring that “during Project construction and operation, the City shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. The City shall ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto the properties or upward into the night sky following International Dark-Sky Association standards.” The MND lacks information on project(s) to which this mitigation measure would apply. CDFW recommends the City revise Mitigation Measure BIO-5 with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-5: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of all projects covered in the MND, the City and Project proponents 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 and Project proponent 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

² 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.

³ Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

⁴ Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

⁵ Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.

⁶ Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). The City and Project proponent 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. ~~During Project construction and operation, the City shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. The City shall ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto the properties or upward into the night sky following International Dark-Sky Association standards.~~

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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/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 MND to assist the City in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further

Cheri Flores
City of La Quinta
June 23, 2025
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coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at jacob.skaggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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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
<p>Mitigation Measure BIO-[A]: Assessment of Biological Resources</p> <p>Prior to Project construction activities for all projects covered in this MND, a complete and recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during</p>	<p>Timing: Prior to Project construction activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City and project proponents</p> <p>Monitoring and Reporting: City</p>

<p>periods of drought.</p>		
<p>Mitigation Measure BIO-3: Nesting Birds</p> <p>Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities for all projects covered in this MND. 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.</p>	<p>Timing: No more than 3 days prior to all vegetation removal or ground-disturbing activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City and project proponents</p> <p>Monitoring and Reporting: City</p>

<p>Mitigation Measure BIO-4: Burrowing Owl Habitat Assessment and Focused and Pre-Construction Surveys</p> <p>No less than 60 days prior to the start of Project-related activities for all projects covered in the MND, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the <i>Staff Report on Burrowing Owl Mitigation</i> (Department of Fish and Game, March 2012 or most recent version) for all projects covered under the MND.</p> <p>If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version) prior to vegetation removal or ground-disturbing activities. 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 prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site 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), acres of</p>	<p>Timing: Habitat Assessment: No less than 60 days prior to the start of project-related activities.</p> <p>Focused surveys: Prior to vegetation removal or ground-disturbing activities. Pre-construction surveys: No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance and when there is a pause in construction of more than 30 days.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City and project proponents</p> <p>Monitoring and Reporting: City and project proponents</p>
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<p>burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained from CDFW prior to commencement of Project activities.</p> <p>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 <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p>Mitigation Measure BIO-[B]: CVMSHCP Local Development Mitigation Fee</p> <p>Prior to construction and issuance of any grading permit for all projects covered in the MND, the City shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and</p>	<p>Timing: Prior to construction and issuance of any grading permit.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City and project proponents</p> <p>Monitoring and Reporting: City</p>

<p>shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee and transfer of fees, at least quarterly and prior to impacts to Covered Species and their Habitats, to the Coachella Valley Conservation Commission.</p>		
<p>Mitigation Measure BIO-[C]: Salvage of Sand-Dependent Covered Species</p> <p>Prior to vegetation removal or ground-disturbing activities, for all project areas covered in the MND that contain suitable habitat for sand-dependent Covered Species, 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.</p>	<p>Timing: Prior to vegetation removal or ground-disturbing activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City and project proponents</p> <p>Monitoring and Reporting: City</p>
<p>Mitigation Measure BIO-5: Artificial Nighttime Lighting</p> <p>Throughout construction and the lifetime operations of all projects covered in the MND, the City and Project proponents 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 and Project proponent 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 and Project</p>	<p>Timing: Throughout construction and lifetime operations.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City and project proponents</p> <p>Monitoring and Reporting: City</p>

proponent 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.		
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