State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

June 27, 2025
Sent via email

Pilar Fløtterud
Senior Planner
City of Rancho Mirage
69-825 Highway 111
Rancho Mirage, CA 92270
pilarf@ranchomirageca.gov

Rancho Mirage Affordable Housing Family Apartments Project (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2025050959

Dear Pilar Fløtterud:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration 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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may

[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.

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: National Community Renaissance

Objective: The proposed Project is a 150-unit housing development across five acres along Via Vail, southeast of the Rancho Mirage Dog Park. The development consists of seven residential buildings oriented around central courtyards. Parking and circulation areas will surround the structures. The Project also involves the extension of Via Vail along the property's eastern boundary. A total landscape area of 42,802± square feet is proposed along the site's perimeter, as well as within open spaces between residential buildings. All vegetation used for landscaping will be drought tolerant and noninvasive. Project lighting will consist of parking lot lighting, building and landscaping lighting, typical of residential development. The Project is surrounded by vacant land on all sides.

Location: The proposed 5±-acre Project site is located on the southern side of Via Vail, between Monterey Avenue and Key Largo Avenue in the City of Rancho Mirage, County of Riverside. The Project is located within Assessor's Parcel Number 685-090-016.

Timeframe: The MND proposes a Project build-out in 2026.

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 burrowing owl (*Athene cunicularia*), as discussed in the Burrowing Owl section below. 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 nesting birds and adding mitigation measures for burrowing owl, artificial nighttime lighting, and the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP).

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 16 of the Project's Biological Resources Assessment (Biological Assessment) states that "suitable nesting habitat is present so a clearance nesting bird survey should be conducted prior to any ground disturbance." CDFW concurs that the Project site contains suitable habitat for ground-nesting birds and birds that nest in shrubs. The MND includes Mitigation Measure BIO-1 that indicates a "site-specific nesting bird survey shall be performed by a qualified ornithologist or biologist no more than 3 days prior to vegetation removal or ground disturbance activities if construction is proposed during the nesting season (January 15 through August 31)." Conducting work outside the peak nesting season is an important avoidance and minimization measure that should be incorporated into project plans to comply with Fish and Game Code sections 3503 and 3503.5. 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.**

To support City in reducing impacts to nesting birds to a level less than significant level, CDFW recommends that the City revise Mitigation Measure BIO-1 with the following additions in **bold** and removals in ~~strikethrough:~~

[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.

Mitigation Measure BIO-1: Nesting Birds

To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 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 all vegetation removal or ground-disturbing activities. 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. ~~Migratory Bird Treaty Act A site-specific nesting bird survey shall be performed by a qualified ornithologist or biologist no more than 3 days prior to vegetation removal or ground disturbance activities if construction is proposed during the nesting season (January 15 through August 31). If active nests are found during the pre-construction nesting bird survey, the biologist shall assess the conditions and establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be 100 to 300 feet for unlisted songbirds and at least 500 feet for birds-of-prey and species listed as threatened or endangered. The nesting area shall not be disturbed until the biologist has determined the young have fledged or the nest is no longer active. The biologist has the authority to stop work if the nesting area exhibits signs of disturbance.~~

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-1 and CDFW-recommended MM BIO-[A] through MM BIO-[D].

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.

The MND and its supporting documents contain limited details on the methods used to conduct an assessment of habitat and surveys for burrowing owl. Page 5 of the Biological Assessment states that the "field assessment was conducted on 18 April 2024" and the "entire site and adjacent properties were also assessed for burrowing owl (*Athene cunicularia*). Inaccessible areas were scanned for burrowing owl habitat and sign (i.e., burrows & perches with whitewash) with binoculars." Page 16 of the Biological Assessment indicates "no burrowing owls or their sign were present on site. Also, no burrows or burrow surrogates that could be used by burrowing owls were present on the site at the time of this survey." General information on a field assessment was given but a discussion of survey methods and full survey results were not provided. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period. 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,*[3] the number and locations of suitable and occupied burrows within the Project site and surrounding areas are unknown. Given the lack of results from 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. CDFW recommends that the MND is revised to include the results of focused surveys, including survey reports,[4] for burrowing owl within the Project site and surrounding area 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.

CDFW notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few shrubs,[5] and that burrowing owls may occur in ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat proximity.[6] Based on review of historical aerial imagery using Google Earth, the Project site and all surrounding areas contain habitat with sparse cover of shrubs that is suitable nesting and foraging habitat for burrowing owl. Burrowing owls also frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats.[7,8] Despite the presence of suitable habitat for burrowing owl, the uncertainty over the status of burrowing owl occupancy, and potential for burrowing owl to move onto the Project site prior to and during Project construction activities, the MND lacks a mitigation measure for burrowing owl.

With neither an adequate assessment for burrowing owls nor a mitigation measure for burrowing owls, CDFW is concerned that the Project has not reduced impacts to

---

[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

[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, and description and recent photos of the project site, map(s) showing the locations of all suitable burrows, occupied burrows, burrowing owls, and burrowing owl sign, and 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] Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. Burrowing owl (*Speotyto cunicularia*), in A. Poole and F. Gill, editors, The Birds of North America, The Academy of Natural Sciences, Philadelphia, Pennsylvania, and The American Ornithologists' Union, Washington, D.C., USA.

[6] Gervais, J. A., D. K. Rosenberg, R. G. Anthony. 2003. Space use and pesticide exposure risk of male burrowing owls in an agricultural landscape. Journal of Wildlife Management 67: 155-164.

[7] Chipman, E. D., N. E. McIntyre, R. E. Strauss, M. C. Wallace, J. D. Ray, and C. W. Boal. 2008. Effects of human land use on western burrowing owl foraging and activity budgets. Journal of Raptor Research 42(2): 87-98.

[8] Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. Condor 73:162–176.

burrowing owl to a level less than significant. To support the City in reducing impacts to a level less than significant, CDFW recommends that the City add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[A]: 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 CVMSHCP-approved Acceptable 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.

3) 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 41 of the MND states that the "Project will be required to adhere to CVMSHCP's regulations and standards and will pay the mitigation fee required under the Plan." 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, 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." The Project contains CVMSHCP modeled habitat for Coachella Valley fringe-toed lizard (*Uta inornata*), flat-tailed horned lizard (*Phrynosoma mcallii*), Palm Springs pocket mouse (*Perognathus Longimembris Bangsi*), Coachella Valley round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*), and Coachella Valley milk vetch (*Astragalus lentiginosus* var. *coachellae*). 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, 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.

4) Artificial Nighttime Lighting

The Project site is located adjacent to vacant areas with desert scrub habitat that provide suitable burrowing, nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, and other nocturnal and crepuscular wildlife. The Project proposes "parking lot lighting, building and landscaping lighting" (page 26 of the MND). The Project's proposed artificial nighttime lighting has the potential to significantly and adversely affect biological resources using these vacant areas surrounding the Project. 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.[9] Many species use photoperiod cues for communication (e.g., bird song[10]), determining when to begin foraging,[11] behavioral thermoregulation,[12] and migration.[13] Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.[10]

Page 26 of the MND indicates that the Project "is required to comply with the City's Municipal Code Section 17.18.050 which mandates exterior light fixtures to be shielded so as to direct lighting downward and prevent spillage onto adjacent property." CDFW considers these plans to minimize the impacts of artificial nighttime lighting to be insufficient in scope to reduce the impacts of lighting to level less than significant. To support the City in avoiding or reducing impacts of artificial nighttime lighting on biological resources to less than significant, CDFW recommends the City add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[D]: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of the Project, the City and Project proponent 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

---

[9] 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.
[10] Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. The Condor 108:130–139.
[11] Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. Current Biology 19:1123–1127.
[12] Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. Ecology 58:98–108.
[13] Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. Frontiers in Ecology and the Environment 2:191–198.

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 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.

5) Landscaping

Page 11 of the MND indicates that "a total landscape area of 42,802± square feet is proposed along the site's perimeter, as well as within open spaces between residential buildings. All vegetation used for landscaping will be drought tolerant and noninvasive." No additional details are provided on landscaping plans in the MND. CDFW recommends that the MND 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 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 coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at jacob.skaggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Carly Beck
FAC3969253B145B...

For
Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@Wildlife.ca.gov

Peter Satin, Coachella Valley Association of Governments
psatin@cvag.org

Mary Beth Woulfe, U.S. Fish and Wildlife Service
marybeth_woulfe@fws.gov

Lory Salazar-Velasquez, U.S. Fish and Wildlife Service
lory_salazar-velasquez@fws.gov

Noelle Ronan, U.S. Fish and Wildlife Service
noelle_ronan@fws.gov

Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	**Timing and Methods**	**Responsible Parties**
Mitigation Measure BIO-1: Nesting Birds **To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 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 all vegetation removal or ground-disturbing activities. 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**	**Timing:** No more than 3 days prior to all vegetation removal or ground-disturbing activities. **Methods:** See Mitigation Measure	**Implementation**: City and Project proponent **Monitoring and Reporting**: City

been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.		
Mitigation Measure BIO-[A]: 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 CVMSHCP-approved Acceptable 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)**	**Timing: 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. **Methods:** See Mitigation Measure	**Implementation**: City and Project proponent **Monitoring and Reporting**: City

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.**		
Mitigation Measure BIO-[B]: 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 fees, at least quarterly and prior to impacts to Covered Species and their Habitats, to the Coachella Valley Conservation Commission.**	**Timing:** Prior to construction and issuance of any grading permit. **Methods:** See Mitigation Measure	**Implementation**: City **Monitoring and Reporting**: City

Mitigation Measure BIO-[C]: Salvage of Sand-Dependent Covered Species **Prior to 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 vegetation removal or ground-disturbing activities. **Methods:** See Mitigation Measure	**Implementation**: City and Project Proponent **Monitoring and Reporting**: City
Mitigation Measure BIO-[D]: Artificial Nighttime Lighting **Throughout construction and the lifetime operations of the Project, the City and Project proponent 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 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.**	**Timing:** Throughout construction and lifetime operations of the Project. **Methods:** See Mitigation Measure	**Implementation**: City and Project Proponent **Monitoring and Reporting**: City