



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](http://www.wildlife.ca.gov)

*GAVIN NEWSOM, Governor*  
*CHARLTON H. BONHAM, Director*



August 19, 2025  
*Sent via email*

Ben Torres  
Planning Manager  
City of Rancho Mirage  
69-825 Highway 111  
Rancho Mirage, CA 92270  
[bent@ranchomirageca.gov](mailto:bent@ranchomirageca.gov)

16-Lot Subdivision (Tentative Tract Map 38971) Project (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2025070800

Dear Ben Torres:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from the City of Rancho Mirage (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments 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

---

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

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:** Phillip Fomotor

**Objective:** The Project involves the subdivision of 16 single-family residential lots within 8 parcels totaling 19.81 acres and the development of those lots. The 16 individual lot sizes would range in land area from 42,476 square feet to 67,608 square feet. The lots would be arranged along Peterson Road around the proposed cul-de-sac roadway. The Project will undergo two phases. Currently, the three southern parcels would be subdivided into 8 lots: Lots 6, 7, 8, 9, 13, 14, 15, and 16. This would be phase 1 of the Project. Phase 2 of the Project involves the remaining 5 northern parcels, which would be subdivided into 8 lots: Lots 1, 2, 3, 4, 5, 10, 11, and 12.

All exterior lighting at the project site would be conditioned to be Dark-Sky compliant. Drought tolerant landscaping will be planted throughout the project site.

**Location:** The proposed Project is located north of the intersection of Mirage Cove Drive and Peterson Road in the City of Rancho Mirage, in the County of Riverside. Assessor's Parcel Numbers: 689-090-003, 689-130-004, 689-130-005, 689-130-013, 689-130-014, 689-130-017, 689-130-018, and 689-140-022. The proposed Project area is generally bounded on the north by the Whitewater River, on the west by Golden State Street, a private street with no access to the subject site, on the south by Mirage Cove Drive, and on the east by the Whitewater River and Kelley Lane.

**Timeframe:** The MND proposes Project construction to start in July 2025.

## **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*) and an assessment of biological resources, as discussed in the Assessment of Biological Resources and Burrowing Owl sections 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 measures for burrowing owl, nesting birds, and special-status plants, and adding mitigation measures for artificial nighttime lighting and the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP).

#### **1) Assessment of Biological Resources**

Page 5 of the Project's General Biological Assessment (Biological Assessment), dated March 2024, indicates that the Project site supports suitable habitat for slender cottonheads (*Nemacaulis denudate* var. *gracilis*) and chaparral sand-verbena (*Abronia*

*villosa* var. *aurita*) but none were observed during field surveys. CDFW concurs that the Project site contains suitable habitat for these two species. Page 4 of the Biological Assessment indicates that general biological surveys were conducted on February, 12, 2024, a time that is outside of the typical bloom period for slender cottonheads (April and May according to Calflora). Additionally, photos provided in the Biological Assessment appear to show presence of desert sand verbena (*Abronia villosa*), though the Biological Assessment does not indicate that desert sand verbena was observed on-site or discuss how the absence of a rare variety of the species, chapparal sand-verbena, was determined.

Per CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018<sup>2</sup>), CDFW recommends that botanical field surveys are conducted at the times of year when plants will be both evident and identifiable. Since surveys were conducted outside of the peak bloom period for slender cottonheads, and the Biological Assessment lacks a discussion of how absence of chapparal sand-verbena was determined, CDFW is concerned that the assessment of the existing environmental setting with respect to special-status plants has not been adequately analyzed in the MND. 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 without a complete and accurate description of the existing environmental setting, the MND likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant.

Without an appropriate assessment of the biological resources, particularly focused on special-status plants, appropriate avoidance, minimization, and/or mitigation measures cannot be identified, and it is uncertain if impacts to biological resources have been reduced to a level less than significant. CDFW recommends the MND and its supporting documents be revised to include the results of a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018<sup>3</sup>), which includes conducting botanical field surveys at the times of year when plants will be both evident and identifiable. Based on the findings of a thorough, recent floristic-based assessment,

---

<sup>2</sup> CDFW, 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and*

*Sensitive Natural Communities*, State of California, California Natural Resources Agency, Department of Fish and Wildlife: March 20, 2018 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>)

<sup>3</sup> CDFW, 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*, State of California, California Natural Resources Agency, Department of Fish and Wildlife: March 20, 2018 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>)

CDFW recommends that the MND is revised to include appropriate avoidance, minimization, and mitigation measures.

The MND includes Mitigation Measure BIO-2, indicating that a “focused plant survey should be considered for all special status plant species that have the potential to occur on the site to be performed during the blooming season (April-June) to determine the potential environmental effects of the proposed projects on special status plants and sensitive natural communities following recommended protocols by the Department of Fish and Wildlife.” CDFW considers the measure to be inadequate, in part, because it does not identify specific survey protocols or include appropriate avoidance, minimization, and mitigation. To reduce impacts to special-status plants to a level less than significant, CDFW recommends the City revise Mitigation Measure BIO-2 as follows (with additions in **bold** and removals in ~~strikethrough~~):

### **Mitigation Measure BIO-2: Special-Status Plants**

**Prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW’s *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (see <https://wildlife.ca.gov/Conservation/Plants>) shall be performed by a qualified biologist. Should any state-listed plant species (excluding CVMSHCP Covered Species) be present in the Project area, the Project proponent shall obtain appropriate California Endangered Species Act (CESA) authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law (excluding CVMSHCP Covered Species) be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated. A focused plant survey should be considered for all special status plant species that have the potential to occur on the site to be performed during the blooming season (April-June) to determine the potential environmental effects of the proposed projects on special status plants and sensitive natural communities following recommended protocols by the Department of Fish and Wildlife.**

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for CDFW-recommended revisions to MM BIO-1 and MM BIO-2 and CDFW-recommended MM BIO-[A], MM BIO-[B], and MM BIO-[C].

### **2) 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.

The MND and its supporting documents lack an analysis on the potential impacts of the Project on nesting birds and their suitable habitat, though the MND includes a mitigation measure for nesting birds. CDFW considers the Project site to contain suitable habitat for ground-nesting birds and birds that nest in shrubs and trees, including both native and non-native vegetation (including ornamental plants). Disturbance to and removal of vegetation within and surrounding the Project areas has the potential to impact nesting birds. Construction noise associated with the Project also has the potential to impact nesting birds. The direct and indirect impacts of the Project have the potential to significantly adversely affect nesting birds.

CDFW considers the mitigation measure for nesting birds in the MND to be inadequate in scope and timing to reduce impacts to nesting birds to a level less than significant. In alignment with the CVMSHCP's general conservation measure for nesting birds (CVMSHCP Section 9.7), CDFW recommends Project construction activities are conducted outside of the peak nesting bird season. 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<sup>4</sup>). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site and surrounding area be avoided any time birds are nesting on-site. CDFW therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

To support the City in reducing impacts to nesting birds to a less than significant level, CDFW recommends the City revise the mitigation measure for nesting birds as follows (with additions in **bold** and removals in ~~striketrough~~):

### **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 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.**

~~Pre-construction surveys for burrowing owls and nesting birds protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code shall be conducted prior to the commencement of Project-related ground disturbance.~~

---

<sup>4</sup> 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.

- ~~a. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as desert tortoise, are encountered, authorization from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged.~~
- ~~b. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas~~

### **3) *Burrowing Owl***

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

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the CVMSHCP, the CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs. To the contrary, section 3.5.6 of the NCCP Permit states burrowing owl “pairs or individuals will not be Taken” and reiterates that the “HCP/NCCP does not authorize Take of [burrowing owl] nests [or] eggs[.]” Therefore, throughout the CVMSHCP area—both within and without Conservation Areas—Permittees must ensure that activities occurring within their jurisdictions do not result in the take, possession, or destruction of burrowing owl individuals, nests, or eggs. Any activity occurring within the CVMSHCP area that results in the take of burrowing owl individuals, nests, or eggs would be unlawful and would not be a Covered Activity under

the CVMSHCP. Per IA Section 13.2, the City is obligated to ensure the projects to which it confers Take Authorization under the CVMSHCP comply with all terms and requirements of the CVMSHCP, the Wildlife Agencies' Permits that created the CVMSHCP, and the IA, including compliance with laws that protect burrowing owls.

Page 34 of the MND states that the "site is located within documented burrowing owl habitat according to CNDDDB (2024). No owls were seen on the property during the survey, and minimal suitable habitat was observed. Burrowing owls are not expected to occur on the site due to lack of suitable vegetation and burrows." Page 4 of the Project's General Biological Resources Assessment (Biological Assessment), dated March 3, 2023, states that "following completion of the initial reconnaissance survey, habitat assessments were conducted for the burrowing owl." The MND and its supporting documents lack information on the protocols used to conduct a habitat assessment for burrowing owl and lack reporting on the findings of the habitat assessment, including, but not limited to, a discussion of vegetation and habitat types potentially supporting burrowing owls in the Project area and vicinity, a written description of the biological setting as it relates to the potential presence of burrowing owl, and the locations of any suitable burrows and/or burrow surrogates identified within or adjacent to the Project site. 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*,<sup>5</sup> the number and locations of suitable and occupied burrows within the Project site and surrounding areas are unknown, and 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 notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few shrubs,<sup>6</sup> 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.<sup>7</sup> Based on review of historical aerial imagery, most areas of the Project contain vacant land with sparse vegetation cover that is suitable nesting and foraging habitat for burrowing owl. CDFW also notes that burrowing owls have also been observed within 1.3 miles of the Project site in areas associated with the Whitewater River based on unprocessed occurrence data accessed using the California Natural Diversity Database. Burrowing owls also frequently move into disturbed areas prior to and during construction activities since

---

<sup>5</sup> 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>

<sup>6</sup> 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.

<sup>7</sup> 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.

they are adapted to highly modified habitats.<sup>8,9</sup> CDFW considers the Project site and surrounding vacant area to contain suitable nesting and foraging habitat for burrowing owl.

Given the presence of suitable habitat for burrowing owl within the Project sites and surrounding area, CDFW recommends that the MND is revised to include the results of focused surveys, including survey reports,<sup>10</sup> 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. Focused surveys and pre-construction surveys are needed to inform appropriate avoidance, minimization, and mitigation measures and support the City in reducing impacts to burrowing owl to a level less than significant. Without conducting focused and pre-construction surveys and incorporating appropriate avoidance, minimization, and mitigation measures, the Project is at risk of significantly adversely affecting burrowing owl.

Page 11 of the Project's Biological Assessment states that "a pre-construction burrowing owl survey may be required by CDFW to determine if any owls have moved on to the site since the February 12, 2024 surveys." The MND includes Mitigation Measure BIO-1, which addresses both nesting birds and burrowing owl. CDFW considers Mitigation Measure BIO-1 to be inadequate in scope and timing to reduce impacts to burrowing owl to a level less than significant. CDFW recommends the City add the following stand-alone mitigation measure for burrowing owl 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**

---

<sup>8</sup> 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.

<sup>9</sup> Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162-176.

<sup>10</sup> Survey reports should include details on survey methods and results, including, but not limited to, the names and qualifications of surveyor(s); a description of survey methods; a description of the conditions of the project site and recent photos; map(s) showing the locations of all suitable burrows, occupied burrows, burrowing owls, and burrowing owl sign; descriptions of burrowing owl behavior observed; California Natural Diversity Database (CNDDDB) field survey forms, etc. For more information, see Appendix D, Survey Reports, of the CDFW 2012 Staff Report on Burrowing Owl Mitigation.

**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 shall be performed by a CVMSHCP-approved Acceptable 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.**

#### ***4) Artificial Nighttime Lighting***

Page 23 of the MND indicates that “All exterior lighting at the project site would be conditioned to be Dark-Sky compliant, in order to reduce the amount of light emitted at the project site at night.” The MND lacks additional information on artificial nighttime lighting and any additional associated avoidance measures. Two of the Project areas are located adjacent to the Whitewater River—an area that provides suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife. The Project’s proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in the open-space and vacant areas adjacent to the Project site. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and

natural enemies; and navigation.<sup>11</sup> Many species use photoperiod cues for communication (e.g., bird song<sup>12</sup>), determining when to begin foraging,<sup>13</sup> behavioral thermoregulation,<sup>14</sup> and migration.<sup>15</sup> Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.<sup>15</sup>

While plans to condition the Project's artificial nighttime lighting to be Dark-Sky compliant support the Project in limiting lighting impacts to biological resources within areas surrounding the Project site, CDFW considers these minimization plans insufficient in scope and timing to reduce impacts to a 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-[B]: 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.**

#### ***5) Coachella Valley Multiple Species Habitat Conservation Plan***

##### Local Development Mitigation Fee

---

<sup>11</sup> 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.

<sup>12</sup> Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

<sup>13</sup> Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

<sup>14</sup> Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.

<sup>15</sup> Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

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

**Mitigation Measure BIO-[C]: CVMSHCP Compliance**

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

**6) Landscaping**

Page 84 the MND states that "drought tolerant landscaping will be planted throughout the project site." 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

Ben Torres  
City of Rancho Mirage  
August 19, 2025  
Page 14

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 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](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

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](mailto:Heather.Brashear@Wildlife.ca.gov)

Mary Beth Woulfe, U.S. Fish and Wildlife Service  
[marybeth\\_woulfe@fws.gov](mailto:marybeth_woulfe@fws.gov)

Ben Torres  
 City of Rancho Mirage  
 August 19, 2025  
 Page 15

Lory Salazar-Velasquez, U.S. Fish and Wildlife Service  
[lory\\_salazar-velasquez@fws.gov](mailto:lory_salazar-velasquez@fws.gov)

Noelle Ronan, U.S. Fish and Wildlife Service  
[noelle\\_ronan@fws.gov](mailto:noelle_ronan@fws.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@lci.ca.gov](mailto:state.clearinghouse@lci.ca.gov)

**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-2: Special-Status Plants</b></p> <p>Prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (see <a href="https://wildlife.ca.gov/Conservation/Plants">https://wildlife.ca.gov/Conservation/Plants</a>) shall be performed by a qualified biologist. Should any state-listed plant species (excluding CVMSHCP Covered Species) be present in the Project area, the Project proponent shall obtain appropriate California Endangered Species Act (CESA) authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law (excluding CVMSHCP Covered Species) be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation</p>	<p><b>Timing:</b> Prior to construction activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Project Proponent and City of Rancho Mirage</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>

<p><b>should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.</b></p>		
<p><b>Mitigation Measure BIO-1: Nesting Birds</b></p> <p><b>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 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</b></p>	<p><b>Timing:</b> No more than 3 days prior to all vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b>        Project Proponent and City of Rancho Mirage</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>

<p><b>the authority to stop work if nesting pairs exhibit signs of disturbance.</b></p>		
<p><b>Mitigation Measure BIO-[A]: Burrowing Owl Focused and Pre-Construction Surveys</b></p> <p><b>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 <i>Staff Report on Burrowing Owl Mitigation (2012 or most recent version)</i> 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</b></p>	<p><b>Timing:</b>  <b>Focused surveys:</b> Prior to vegetation removal or ground-disturbing activities. <b>Pre-construction surveys:</b> 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><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b>          Project Proponent and City of Rancho Mirage</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>

<p><b>under Fish and Game Code section 2081) should be obtained from CDFW prior to commencement of Project activities.</b></p> <p><b>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 (2012 or most recent version)</i>. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CVMSHCP-approved Acceptable 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.</b></p>		
<p><b>Mitigation Measure BIO-[B]: Artificial Nighttime Lighting</b></p> <p><b>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</b></p>	<p><b>Timing:</b> Throughout construction and the lifetime operations of the Project.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project Proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>

<p><b>in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <a href="http://darksky.org/">http://darksky.org/</a>). 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.</b></p>		
<p><b>Mitigation Measure BIO-[C]: CVMSHCP Compliance</b></p> <p><b>Prior to construction and issuance of any grading permit, the City shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee and transfer of revenues to the Coachella Valley Conservation Commission.</b></p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project Proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>