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DEPARTMENT OF FISH AND WILDLIFE



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September 17, 2026
Sent via email

Jose Merlan
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**Subject: The Ranch at Madison Specific Plan (PROJECT)
Draft Environmental Impact Report (DEIR)
SCH# 2025080821**

Dear Jose Merlan:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the County of Riverside (County) 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

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

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 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: Discovery MM Club, LLC

Objective: The Project proposes the development of a private residential community consisting of 173.8 acres of mixed use and various residential densities to develop 85 dwelling units as well as a multi-use community center, a golf course and short-game practice area, and private streets on the Project site. A General Plan Amendment (GPA240010) is also proposed to change the land uses from Agriculture (AG) and Low Density Residential (LDR) to LDR (49.3 acres), Medium Density Residential (11.2 acres), Mixed Use Area (20.5 acres), and Open Space-Recreation (97.8 acres).

Location: The Project is located within Assessor Parcel Numbers (APNs) 780-010-012, -013, -014, and 780-020-001, -002, -003 in the City of La Quinta, Riverside County, California. The Project is located between 52nd Avenue and Avenue 54 on the north and south, respectively, and Monroe Street and Jackson Street on the west and east, respectively. The Project site is located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Area and outside of a Conservation Area.

Timeframe: The DEIR indicates construction activities will begin in 2027.

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 County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The DEIR has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and

cumulative) on biological resources and whether those impacts are reduced to less than significant.

CDFW's comments and recommendations on the DEIR are explained in greater detail below and summarized here. CDFW is concerned that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant impacts to biological resources. CDFW requests that additional avoidance, minimization, and mitigation measures are added to the Final EIR that avoid or reduce impacts to 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 DEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the DEIR may provide an incomplete analysis of Project-related environmental impacts. The DEIR lacks a complete assessment of biological resources associated with American badger (*Taxidea taxus*).

A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

Mitigation Measures

CEQA requires that a DEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the DEIR are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the County in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for American badger, the CVMSHCP (local development mitigation fee), and avoidance of bats during tree removal, as well as revising the mitigation measures for nesting birds, burrowing owl (*Athene cunicularia hypugaea*), and bat surveys.

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.). The CVMSHCP includes a general conservation measure that applies to all Covered bird species to avoid impacts to their habitat during the nesting season (CVMSHCP Section 9.7).

With regard to the CVMSHCP, per its associated Permits from CDFW and the U.S. Fish and Wildlife Service (collectively the Wildlife Agencies) and the Implementing Agreement, Authorized Take incidental to Covered Activities must be consistent with, and in compliance with state and federal laws that protect nesting birds and birds of prey, which include, but are not limited to, California Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act of 1918. Therefore, all Covered Activities within the Plan Area, whether they are located within or outside Conservation Areas, must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds and birds of prey. The CVMSHCP includes a general conservation measure that applies to all Covered bird species to avoid impacts to their habitat during the nesting season (CVMSHCP Section 9.7). Per Implementing Agreement Section 13.2, the County is obligated to ensure and enforce implementation of all applicable requirements of the Wildlife Agencies' Permits, the Implementing Agreement, and the CVMSHCP for all Covered Activities.

Regarding the potential for the Project to impact nesting birds, the Project's Biological Resources Assessment (Biological Assessment), dated April 10, 2026, indicates that "the project site has the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that could occur in the area that area adapted to urban environments." CDFW notes that the Project site and surrounding area contain suitable habitat for birds that nest in trees and shrubs, as well as on the ground.

The DEIR includes Mitigation Measure BIO-3 for nesting bird surveys, which indicates that "if construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction." CDFW considers the measure to be inadequate in scope and timing to avoid or reduce impacts to nesting birds to a level less than significant. CDFW recommends to the greatest extent feasible that initial ground disturbing and vegetation removal activities are conducted outside of the peak nesting bird season. Also, CDFW 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 (Socular et al., 20172). 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 resident and 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 County in avoiding or reducing impacts to nesting birds to a level less than significant, CDFW recommends Mitigation Measure BIO-3 is revised with the following additions in **bold** and removals in ~~strike through~~:

Mitigation Measure BIO-3: Nesting Birds

To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a CDFW-approved 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, the 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. Following documentation of baseline conditions, the qualified biologist familiar with the nesting phenology of the nesting species may choose to adjust the buffers based on nest and buffer monitoring results. If the qualified biologist determines that Project activities may be causing an adverse reaction, the qualified biologist shall increase the buffers accordingly. Construction activities may not occur inside the established buffers, which shall remain on-site until the 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.

~~Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests, or eggs). In order to protect migratory bird species, a nesting bird clearance survey shall be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season.~~

~~If construction occurs between February 1 and August 31, a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground-disturbing activities to ensure that no nesting birds will be~~

~~disturbed during construction. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities shall stay outside of a no-disturbance buffer. The size of the no-disturbance buffer shall be determined by the wildlife biologist and will depend on the level of noise and/or surrounding anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest shall be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel shall be instructed on the sensitivity of nest areas. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.~~

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

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, per its associated Permits from the Wildlife Agencies and the Implementing Agreement, Authorized Take incidental to Covered Activities must be consistent with, and in compliance with state and federal laws that protect nesting birds and birds of prey, which include, but are not limited to, California Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act of 1918. Therefore, all Covered Activities within the Plan Area, whether they are located within or outside Conservation Areas, must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds and birds of prey. The CVMSHCP includes a general conservation measure that applies to all Covered bird species, including burrowing owl, to avoid impacts to their habitat during the nesting season (CVMSHCP Section 9.7). Per Implementing Agreement Section 13.2, the County is obligated to ensure and enforce implementation of all applicable requirements of the Wildlife Agencies' Permits, the Implementing Agreement, and the CVMSHCP for all Covered Activities. CDFW's NCCP Permit #2835-2008-001-06 for the CVMSHCP does not authorize Take of burrowing owl individuals, nests, or eggs. Therefore, all Covered Activities in the Plan Area must implement measures to avoid the Take of burrowing owl individuals, nests, and eggs.

With regard to suitable habitat for burrowing owl within the Project site, page 5.4-14 of the DEIR indicates the following: "The Project Site contains areas of open, disturbed land with suitable line-of-sight conditions and several burrows that could provide potential habitat for burrowing owls. However, no burrowing owls or evidence of occupation were observed during the biological field investigation. Based on these findings, the Project Site was determined to have a moderate potential to support burrowing owl." CDFW agrees that the Project site and surrounding areas contain suitable habitat for burrowing owl.

The DEIR includes Mitigation Measure BIO-1 for burrowing owl, which calls for focused surveys during the breeding season and indicates "if burrowing owls are found on site during the focused surveys, coordination shall occur with the CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owls, or if an Incidental Take Permit under Section 2081 of the CESA will be prepared and approved by CDFW." While focused surveys conducted during the breeding season following guidelines in *Staff Report on Burrowing Owl Mitigation (Staff Report; 2012 or most recent version)*² are an appropriate component of avoidance, minimization, and mitigation measures for burrowing owl, Mitigation Measure BIO-1 lacks adequate details on coordination with regulatory agencies if burrowing owls are detected during focused surveys. Because burrowing owl is a Covered Species under the CVMSHCP, and both CDFW and the U.S. Fish and Wildlife Service (Wildlife Agencies) are permitting agencies for the CVMSHCP, CDFW recommends the County and Project Proponent consult with the Wildlife

² California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.

Agencies if burrowing owls are detected within or surrounding the Project site. Also, while CDFW appreciates that Mitigation Measure BIO-1 indicates that pre-construction surveys for burrowing owl "shall be conducted following the regulations in the CDFW 2012 Staff report on Burrowing Owl," CDFW recommends that additional details on the timing of pre-construction surveys are added to Mitigation Measure BIO-1.

To support the County in avoiding or reducing impacts to burrowing owl to a level less than significant, CDFW recommends that Mitigation Measure BIO-1 is revised with the following additions in **bold** and removals in ~~strike through~~:

Mitigation Measure BIO-1: 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 on and adjacent to the Project site by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities. CDFW strongly recommends that focused surveys are conducted in accordance with the *Staff Report on Burrowing Owl Mitigation (Staff Report; 2012 or most recent version)*³. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the *Staff Report*, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the *Staff Report* under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to burrowing owl individuals, nests, or eggs cannot be avoided, CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.

Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and again within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the

³ California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.

recommendations and guidelines provided in Appendix D of the Staff Report on Burrowing Owl Mitigation. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not begin until consultation with CDFW and USFWS is completed. ~~The Project Site supports suitable foraging habitat and suitable burrows for burrowing owls. In order to ensure that no burrowing owls occur on site, focused surveys for burrowing owl shall be conducted during the breeding season. Focused surveys will conform to the protocol detailed in the 2012 CDFW Staff Report on Burrowing Owl Mitigation. The survey will consist of at least four (4) visits, with at least one site visit between February 15 and April 15, with a minimum of three surveys, at least three weeks apart between April 15 and July 15, with at least one survey after June 15. A qualified wildlife biologist will survey the entire Project Site by walking transects in suitable habitat and in areas within 150 meters (500 feet) of the limits of disturbance, as applicable based on topography, access, and site conditions. Walking transects will be spaced approximately 10 meters (33 feet) apart or less to ensure 100% visual coverage of all areas.~~

~~If no burrowing owls are documented on site during the focused survey, a preconstruction clearance survey shall be conducted prior to the start of grounddisturbing activities to ensure burrowing owls remain absent from the Project Site.~~

~~Although not anticipated, if burrowing owls are found on site during the focused surveys, coordination shall occur with the CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owls, or if an Incidental Take Permit under Section 2081 of the CESA will be prepared and approved by CDFW.~~

~~Burrowing Owl Pre-Construction Clearance Survey~~

~~To ensure burrowing owls are absent from the Project Site, a pre-construction burrowing owl clearance survey shall be conducted following the regulations in the CDFW 2012 Staff report on Burrowing Owl..~~

3) American Badger

American badger is a California Species of Special Concern. Regarding the potential for American badger to occur within the Project site, Table C-1 of the Project's Biological Assessment states the species is "Presumed Absent. No suitable habitat is present within or adjacent to the project site." CDFW disagrees with this conclusion. The Project site contains predicted suitable habitat of a medium suitability rank for American badger, based on California Wildlife Habitat Relationship System Predicted Habitat Models, accessed using CDFW's Biogeographic Information and Observation System. The Biological Assessment also notes the presence of ground squirrels (page 6) and small mammal burrows (page 8) within the Project site. Ground squirrels and other small mammals are prey for American badger.⁴ Project activities have the potential to result in harm or direct mortality to American badger

⁴ California Department of Fish and Wildlife (CDFW). (2005). *American Badger (Taxidea taxus)*. California Wildlife Habitat Relationships System, Life History Account M160. Sacramento, CA: California Department of Fish and Wildlife.

adults and young through, for example, the destruction of dens and natal burrows. CDFW recommends the DEIR is revised to include a discussion of the suitability of the Project site to support American badger. Due to the DEIR's lack of analysis of potential impacts to American badger and species-specific avoidance, minimization, and mitigation measures, CDFW considers the DEIR to be inadequate to reduce impacts to American badger to a level less than significant.

To support the Project proponent and County in avoiding or reducing impacts to American badger to a level less than significant, CDFW recommends the following mitigation measures are added to a Final EIR:

Mitigation Measure BIO-[A]: American Badger

No more than 30 days prior to the beginning of ground disturbance and/or construction activities, a CDFW-approved qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffers. If American badger burrows are located, the Project proponent shall have the qualified biologist(s) monitor the burrows using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the burrows. If non-natal active dens can be avoided and buffered from Project activities, the biologist shall flag a minimum 100-foot disturbance-free buffer zone. A minimum 500-foot disturbance-free buffer shall be placed around any natal dens and maintained, along with connectivity to adjacent habitat, until juvenile independence is determined by the biologist. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Established buffers shall remain until the biologist determines the young have dispersed or the den is no longer active, or until Project activities cease. If occupied burrows are found in Project disturbance areas and cannot be avoided, the County and Project proponent shall consult with CDFW on an appropriate path forward. The loss of American badger habitat shall be mitigated at no less than a 2:1 ratio.

4) Coachella Valley Multiple Species Habitat Conservation Plan

Local Development Mitigation Fee

The Project is located within the CVMSHCP Plan Boundary and contains habitat for Covered Species and/or conserved natural communities, including burrowing owl (discussed further above). Per the CVMSHCP 6.6.1 (page 6-19), the County is obligated to pay a Local Development Mitigation Fee for projects outside Conservation Areas or commit an equivalent dollar value of its lands in the Conservation Areas to permanent Conservation. Per CVMSHCP Section 5.2.1.1, a Local Development Mitigation Fee applies to 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. To document the County's obligation to pay a Local Development Mitigation Fee for the Project, CDFW recommends the County add the following mitigation measure to a Final EIR:

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

Prior to construction, to comply with its obligations under the CVMSHCP, the County of Riverside shall pay to the Coachella Valley Conservation Commission a Local Development Mitigation Fee for the Project.

5) Bats

Bats are protected as nongame mammals under Fish and Game Code section 4150. Foliage-roosting bats, including, for example, several species in the Vespertilionidae family, rely on trees for roosting.^{5,6} Examples of foliage-roosting bats in southern California include California myotis (*Myotis californicus*), big brown bat (*Eptesicus fuscus*), hoary bat (*Lasiurus cinereus*), western mastiff bat (*Sturnoura nana*), desert red bat (*Lasiurus frantzii*), and western yellow bat (*Lasiurus xanthinus*). Page 6 of the Project's Biological Assessment states "the project site has the potential to provide suitable foraging and/or roosting habitat for common and special-status bats species." CDFW agrees that the Project site contains suitable roosting and foraging habitat for bats, including the abandoned date palm grove in the northeastern portion of the Project site.

The DEIR includes Mitigation Measure BIO-2, which requires that exit counts and acoustic surveys are performed prior to initial ground disturbance and a bat management plan to be developed if "the results of the bat survey find a total of a single roosting individual of a special-status bat species, or 25 or more individuals of a non-special status bat species with potential to be present in the Project Site." CDFW clarifies that all bat species are protected under Fish and Game Code section 4150; therefore, avoidance and minimization measures are needed to avoid take of individuals of both common and special-status bat species. Also, Mitigation Measure BIO-2 only calls for one survey for bats prior to Project impacts. CDFW recommends that two focused surveys in the spring and two focused surveys in the fall are conducted to determine presence of daytime, nighttime, wintering, and maternity roost sites. CDFW considers Mitigation Measure BIO-2 to be inadequate in scope and timing to reduce impacts to bats to a level less than significant. CDFW recommends Mitigation Measure BIO-2 is revised with the following additions in **bold** and removals in ~~strike through~~:

Mitigation Measure BIO-2: Bat Surveys:

Prior to the initiation of Project activities within suitable bat roosting habitat, the Project Proponent shall retain a CDFW-approved qualified biologist(s) to conduct focused surveys to

⁵ Constantine DG. 1966. Ecological Observations on Lasiurine Bats in Iowa. Journal of Mammalogy. 47(1):34--41. doi:10.2307/1378064.

⁶ Kunz TH, Fenton MB. 2005. Bat Ecology. University of Chicago Press.

determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by the qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.

If active maternity roosts are identified in the work area or 1000 feet extending from the work area, Project construction will only occur outside of the maternity roosting season after young bats are volant (flying). Maternity roosts shall not be evicted, excluded, removed, or disturbed. If active hibernacula are identified in the work area or 1000 feet extending from the work area, a minimum 1000-foot no-work buffer shall be provided around hibernacula. Buffers shall be left in place until the end of Project construction and activities or until the qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.

~~Prior to implementation of Project activities, a qualified biologist shall be retained to determine whether potential roosting sites for bats may be affected. For large ornamental trees and palms suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance, vegetation, or structure removal to determine whether the Project Site and a 300-foot buffer support a nursery or roost, and by which species. This work will occur between late spring and late summer and/or in the fall (generally mid-March through late October). If the results of the bat survey find a total of a single roosting individual of a special status bat species, or 25 or more individuals of a non-special status bat species with potential to be present in the Project Site (i.e., hoary bat, western yellow bat), a Bat Management Plan shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan shall provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan shall be reviewed and approved by CDFW prior to disturbance of the roosts.~~

Also, because trees within the Project site, such as the date palm (*Phoenix sp.*) grove in the northeastern portion of the site, are suitable roosting habitat for bats, the Project should implement appropriate avoidance, minimization, and mitigation measures to ensure impacts to bats are less than significant. Removal of trees on-site that contain roosting habitat for bats can subject bats to impacts ranging from permanent loss of day roosts, including

maternity roosts, to direct mortality if avoidance, minimization, and mitigation measures are not implemented. CDFW recommends the following mitigation measure is added to a Final EIR:

Mitigation Measure BIO-[C]: Avoidance of Bats during Tree Removal

Tree removal work with the potential to house roosting bats shall be performed after maternity season when young are volant (flying) but before expected onset of torpor (wintering inactivity) to minimize direct impacts to roosting bats (i.e., tree removal could be conducted between approximately September 15 and October 31). Tree removal work may also be conducted following winter torpor and prior to the start of the maternity season (i.e., tree removal could be conducted approximately between February 15 and March 31). No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed with supervision by a qualified bat biologist.

6) Landscaping

Page 5.8-41 of the DEIR states that the “the proposed Project would include native and drought tolerant plants in compliance with the County’s Code of Ordinances, Chapter 17.276 water efficient landscape requirements.” The DEIR lacks additional information on landscaping plans. CDFW recommends that the DEIR include recommendations regarding landscaping from Section 4.0 of the CVMSHCP “Table 4-112: Coachella Valley Native Plants Recommended for Landscaping” (pp. 4-180 to 4-182; <https://cvmshcp.org/plan-documents/>). CDFW also recommends incorporation of water-wise concepts in any Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, moths, 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 (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 DEIR to assist the County in identifying and mitigating Project impacts to biological resources. CDFW concludes that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to the Final EIR.

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:

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Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
Mitigation Measure BIO-3: Nesting Birds To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a CDFW-approved 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, the 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. Following documentation of baseline conditions, the qualified biologist familiar with the nesting phenology of the nesting species may choose to adjust the buffers based on nest and buffer monitoring results. If the qualified biologist determines that Project activities may be causing an adverse reaction, the qualified biologist shall increase the buffers accordingly. Construction activities may not occur inside the established	Timing: No more than 3 days prior to vegetation removal or ground-disturbing activities. Methods: See Mitigation Measure	Implementation: Project Proponent Monitoring and Reporting: Project Proponent and County of Riverside

buffers, which shall remain on-site until the 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.		
Mitigation Measure BIO-1: 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 on and adjacent to the Project site by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities. CDFW strongly recommends that focused surveys are conducted in accordance with the <i>Staff Report on Burrowing Owl Mitigation (Staff Report; 2012 or most recent version)</i>⁷. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the <i>Staff Report</i>, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the <i>Staff Report</i> under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to burrowing owl	Timing: Focused surveys: Consistent with timing in Appendix D of the Staff Report on Burrowing Owl Mitigation and prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. Pre-construction surveys No less than 14 days prior to start of Project-related activities and again 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: Project Proponent Monitoring and Reporting: Project Proponent and County of Riverside

⁷ California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.

individuals, nests, or eggs cannot be avoided, CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities. Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and again within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the recommendations and guidelines provided in Appendix D of the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not begin until consultation with CDFW and USFWS is completed.		
Mitigation Measure BIO-[A]: American Badger No more than 30 days prior to the beginning of ground disturbance and/or construction activities, a CDFW-approved qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffers. If American badger burrows are located, the Project proponent shall have the qualified biologist(s) monitor the burrows using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the burrows. If non-natal active dens can be avoided and buffered from Project activities, the biologist shall flag a minimum 100-foot disturbance-free buffer zone. A minimum 500-foot disturbance-free buffer shall be placed around any natal dens and maintained, along with connectivity to adjacent habitat, until juvenile independence is determined by the biologist. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Established buffers shall remain until the biologist determines the young have dispersed or the den is no longer active, or until Project activities cease. If occupied burrows are found in Project disturbance areas and cannot	Timing: No more than 30 days prior to beginning of ground disturbance and/or construction activities. Methods: See Mitigation Measure	Implementation: Project Proponent Monitoring and Reporting: Project Proponent and County of Riverside

be avoided, the County and Project proponent shall consult with CDFW on an appropriate path forward. The loss of American badger habitat shall be mitigated at no less than a 2:1 ratio.		
Mitigation Measure BIO-[B]: CVMSHCP Local Development Mitigation Fee Prior to construction, to comply with its obligations under the CVMSHCP, the County of Riverside shall pay to the Coachella Valley Conservation Commission a Local Development Mitigation Fee for the Project.	Timing: Prior to construction Methods: See Mitigation Measure	Implementation: Project Proponent Monitoring and Reporting: Project Proponent and County of Riverside
Mitigation Measure BIO-2: Bat Surveys: Prior to the initiation of Project activities within suitable bat roosting habitat, the Project Proponent shall retain a CDFW-approved qualified biologist(s) to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by the qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. If active maternity roosts are identified in the work area or 1000 feet extending from the work area, Project construction will only occur outside of the maternity roosting season after young bats are volant (flying). Maternity roosts shall not be evicted, excluded, removed, or disturbed. If active hibernacula are identified in the work area or 1000 feet extending from the work area, a minimum 1000-foot no-work buffer shall be provided around	Timing: Prior to construction Methods: See Mitigation Measure	Implementation: Project Proponent Monitoring and Reporting: Project Proponent and County of Riverside

hibernacula. Buffers shall be left in place until the end of Project construction and activities or until the qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.		
Mitigation Measure BIO-[C]: Avoidance of Bats during Tree Removal Tree removal work with the potential to house roosting bats shall be performed after maternity season when young are volant (flying) but before expected onset of torpor (wintering inactivity) to minimize direct impacts to roosting bats (i.e., tree removal could be conducted between approximately September 15 and October 31). Tree removal work may also be conducted following winter torpor and prior to the start of the maternity season (i.e., tree removal could be conducted approximately between February 15 and March 31). No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.	Timing: See Mitigation Measure Methods: See Mitigation Measure	Implementation: Project Proponent Monitoring and Reporting: Project Proponent and County of Riverside