



4.4 BIOLOGICAL RESOURCES

This section describes the potential impacts to biological resources that could occur due to construction and operation of the Development Project. Appropriate mitigation measures that would avoid or reduce the significance of any identified impacts have been incorporated to be consistent with the California Environmental Quality Act (CEQA) and requirements of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), which is intended to provide regionwide protections for special-status plants and wildlife, and their habitats. The analysis provided in this section was prepared incorporating the information presented in **Section 4.4.2.1**. In addition, pursuant to *CEQA Guidelines* Section 15125(d), this Environmental Impact Report (EIR) evaluates the Development Project's consistency with other applicable planning documents related to biological resources.

While development of the Mt. San Jacinto College (MSJC) Site is not anticipated at this time, an analysis of potential biological resources impacts associated with development of the MSJC Site is provided in **Chapter 5.0** of this EIR.

4.4.1 Scoping Process

The City of Banning (City) received nine comment letters during the public review period of the Notice of Preparation (NOP). For copies of the NOP comment letters, refer to **Appendix A** of this Draft EIR. The following comments pertain to biological resources:

- A comment letter received from the California Department of Fish and Wildlife (CDFW), dated March 1, 2021, provided comments and recommendations regarding the Development Project's impacts to fish and wildlife (biological) resources, as well as to ensure Development Project consistency with CDFW's review process and with the MSHCP.
- A comment from Theresa Rettinghouse from the Center for Biological Diversity was received on February 24, 2021, requesting to be added to the notification list for the Sunset Crossroads Development Project.
- A comment letter from Ron Roy and Kim Floyd, dated March 1, 2021, expressed concern regarding the Development Project's impacts to plants, animals, and habitat in the Development Project vicinity, among other concerns.

4.4.2 Methodology

The impact analysis presented in this section evaluates potential direct, indirect, and cumulative impacts of the Development Project on biological resources and habitats within the Development Site and considers whether the Development Project would conflict with relevant plans, policies, or regulations contained in applicable planning documents adopted by the City and other agencies for the purpose of avoiding or mitigating an environmental effect that could cause a significant environmental impact or would result in an environmental impact to biological resources. This section also evaluates the Development Project's consistency with applicable habitat conservation plans and policies. Under this approach, a policy or program conflict is not in and of itself considered a significant environmental impact. An inconsistency between the Development Project and an applicable plan is



a legal determination that may or may not indicate the likelihood of an environmental impact. In some cases, an inconsistency may result in an underlying physical impact that is significant and adverse.

4.4.2.1 *Biological Resources and Habitat Assessment*

The analysis of potential biological resources impacts associated with the Development Project and the mitigation measures that would avoid or reduce the significance of any identified impacts has been organized in the following sections:

- **Section 4.4.1** Scoping Process
- **Section 4.4.2** Methodology
- **Section 4.4.3** Existing Environmental Setting
- **Section 4.4.4** Regulatory Setting
- **Section 4.4.5** Thresholds of Significance
- **Section 4.4.6** Impact Analysis

As discussed in detail below, the Development Site is within the boundaries of the MSHCP but is not within any MSHCP Criteria Cells, Cell Groups, Cores, or Linkages. Based on the location of the Development Site, studies required by the MSHCP include assessment for riparian/riverine/vernal pool resources, including fairy shrimp habitat and listed branchiopods; a survey for the Narrow Endemic Plant Species Marvin's (Yucaipa) onion (*Allium marvinii*) and many stemmed dudleya (*Dudleya multicaulis*); a survey for the burrowing owl (*Athene cunicularia*); a survey for the Los Angeles pocket mouse (*Perognathus longimembris brevinasus*); and an assessment of whether the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) or any of 28 species that were not adequately conserved at the time of MSHCP implementation (see **Appendix D-7**, Table 6 for the full list of species not adequately conserved under MSHCP Table 9-3 in 2004) may be present on the Development Site. The MSHCP indicates the Development Site is not within a Criteria Area Species Survey Area (CASSA) for plants.

The following focused surveys were not required on the Development Site by the MSHCP:

- Focused special-status amphibians
- Delhi Sands flower-loving fly

Because the Development Site is not located within an MSHCP-designated survey area for amphibians, focused surveys for special-status amphibians are not required for MSHCP compliance. For these reasons, focused surveys for special-status amphibians were not conducted for the Development Project.

Because the Development Site does not contain habitat suitable for the Delhi Sands flower-loving fly and is not within the known range of the species, focused surveys for this species are not required for MSHCP compliance. For these reasons, focused surveys for the Delhi Sands flower-loving fly were not conducted for the Development Project.



The following focused surveys are not required by the MSHCP based on the location of and habitat at and near the Development Site:

- **California Orcutt Grass (*Orcuttia californica*):** Narrow Endemic Plant Species Survey Area (NEPSSA) species for which surveys are not required on the Development Site. Not incidentally detected by focused plant surveys.
- **Coulter's Goldfields (*Lasthenia glabrata ssp. coulteri*):** CASSA species for which surveys are not required on the Development Site because the Development Site is not in any CASSA. Not incidentally detected by focused plant surveys.
- **Davidson's Saltscale (*Atriplex serenana var. davidsonii*):** CASSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **Little Mousetail (*Myosurus minimus ssp. apus*):** CASSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **Orcutt's Brodiaea (*Brodiaea orcuttii*):** NEPSSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **Parish's Brittlebush (*Atriplex parishii*):** CASSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **San Jacinto Valley Crownscale (*Atriplex coronata var. notatior*):** CASSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **Spreading Navarretia (*Navarretia fossalis*):** NEPSSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **Thread-Leaved Brodiaea (*Brodiaea filifolia*):** CASSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.
- **Wright's Trichocoronis (*Trichocoronis wrightii var. wrightii*):** NEPSSA species for which surveys are not required on this Development Site. Not incidentally detected by focused plant surveys.

The following studies prepared for the Development Project are included in **Appendix D** of this Draft EIR. As appropriate and applicable, information from these biological resources studies has been incorporated into this section of the EIR.

- *Results of 2020–2021 Wet Season Fairy Shrimp Focused Surveys, Banning, Riverside County, California*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023;
- *Focused Surveys for the Burrowing Owl, Banning, Riverside County, California*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023;



- *Dry Soil Analysis and Cyst Culturing for the Detection of Federally-Listed Large Branchiopods at the Sunset Crossroads Development Project, Banning, Riverside County, California*; Sunset Crossroads EIR, Helm Biological Consultants, June 2023;
- *Delineation of Jurisdictional Waters, Banning, Riverside County, California*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023;
- *Los Angeles Pocket Mouse Focused Survey, Banning, Riverside County, California*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023;
- *Western Riverside County Multiple Species Habitat Conservation Plan Consistency Analysis, Banning, Riverside County, California*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023;
- *Narrow Endemic Plant Species Survey Report, Banning, Riverside County, California*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023; and
- *Western Riverside County Multiple Species Habitat Conservation Plan Determination of Biologically Equivalent or Superior Preservation Report*; Sunset Crossroads EIR, Wood Environment & Infrastructure Solutions, Inc., June 2023.

As noted above, the evaluation of biological resources and habitat assessment for the Development Site included review of reports from all recent and historical on-site surveys. The field surveys, including transect surveys, for plant, mammal, and bird species, were conducted on site and augmented with information from databases and other resources. The dates for surveys conducted and methodology followed are as follows.

4.4.2.2 *Wet Season Fairy Shrimp Focused Surveys*

Following the first storm of the season on November 8, 2021, the first wet season fairy shrimp survey was conducted at inundated pools on November 9, 2021. Surveys were conducted under the authority of United States Fish and Wildlife Service (USFWS) 10a permit number TE054011-8, according to the USFWS protocol: *Survey Guidelines for the Listed Large Branchiopods*.¹ After each rain event of the season, the site was resurveyed to see if pools had re-inundated or if any new pools had filled. After inundations were detected, a sampling survey was undertaken 1 week later in any pools still inundated, according to protocol. For additional detailed information on the survey methodology, refer to **Appendix D-4** of this EIR.

4.4.2.3 *Burrowing Owl Surveys*

The CDFW's Special Animals List² shows that burrowing owl is currently designated a "California Species of Concern" by the CDFW, a "Bird of Conservation Concern" by the USFWS, and "Sensitive" by the U.S. Bureau of Land Management. Burrowing owl is protected by the federal Migratory Bird

¹ United States Fish and Wildlife Service (USFWS). 2017. Survey Guidelines for the Listed Large Branchiopods. November 13.

² California Department of Fish and Wildlife (CDFW). 2020. Special Animals List. July. Periodic publication. Sacramento, CA. Website: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>.



Treaty Act,³ California Fish and Game Code Sections 3503, 3503.5, 3513, and 3800,⁴ and the MSHCP. All burrowing owl surveys were conducted during the breeding season (1 March–31 August) and in accordance with protocol provided by the Riverside County Transportation and Land Management Agency (Environmental Programs Department “RCTLMA EPD” 2006a⁵). Step I habitat assessment was conducted on March 20, 2020. Extensive potential burrowing owl habitat, primarily in non-native grassland and non-vegetated streambed areas, was found to be present, totaling approximately 358 acres of the Development Site. Suitable habitat was primarily found in the northeastern portion and southern half of the Development Site. For Step II, Part A, focused burrow surveys were then conducted on July 22 and 23, 2020. The site was surveyed on foot with biologists walking meandering transects to identify suitable habitat and potential burrows and mapping the locations of California ground squirrel burrows and/or manmade “burrow surrogates” that were suitable for burrowing owl use. For Step II, Part B, focused burrowing owl surveys were completed via pre-dawn/early morning pedestrian transects over 100 percent of those areas of the site identified in the burrow search as having burrows or structures capable of supporting burrowing owls. Binoculars were used to visually inspect potential perching locations (i.e., rocks, debris, dirt mounds) as well as the entrances to all on-site mammal burrows and debris providing potential shelter (i.e., piles of concrete slabs, cement drainpipes). For additional detailed information on the survey methodology, refer to **Appendix D-1** of this EIR.

4.4.2.4 Dry Soil Analysis and Cyst Culturing for the Detection of Federally-Listed Large Branchiopods

Methods followed USFWS Survey Guidelines for Listed Branchiopods for dry season sampling and consisted of soil collection, soil processing and analysis, and cyst culturing. Dry soils were collected on December 24, 2020 and June 8, 2021 as authorized by the USFWS under permit number TE-054011-8 of Section 10(a)(1)(A) of the Federal Endangered Species Act, 16 United States Code (U.S.C.) 1531 et seq., and its implementing regulations. The collected soils were kept separate for individual processing and were sent for subsequent processing and analysis. Soil samples obtained were processed and analyzed as authorized by the USFWS under recovery permit number TE-795930-10.2 of Section 10(a)(1)(A) of the federal ESA, 16 U.S.C. 1531 et seq., and its implementing regulations. A brine solution was prepared by mixing table salt (NaCl) with lukewarm tap water in a large container. The collected soil material was placed in the brine solution. The soil material was then gently worked by hand to break down any persistent soil structure. The organic material rising to the top of the brine solution was skimmed off and placed in a 600-micron diameter pore-size sieve stacked atop a 75-micron diameter pore-size sieve. The soil material was processed through the top sieve by flushing it with lukewarm tap water while gently rubbing it with a soft-bristle brush. The soil retained from the 75-micron diameter pore size sieve was then removed and thinly (approximately 1.0 millimeter) spread into plastic petri dishes. For more detailed information on the methodology for this analysis, refer to **Appendix D-5** of this EIR.

³ United States Fish and Wildlife Service (USFWS). 2021. A Guide to the Laws and Treaties of the United States for Protecting Migratory Birds. Website: <https://www.fws.gov/program/migratory-birds/what-we-do>.

⁴ California Legislative Information. 2021. Fish and Game Code of California. Website: <http://leginfo.ca.gov/faces/codesTOCSelected.xhtml?tocCode=FGC&tocTitle=+Fish+and+Game+Code+-+FGC>.

⁵ Riverside County Transportation and Land Management Agency, Environmental Programs Department (RCTLMA EPD). 2006a. Burrowing Owl Survey Instructions for the Western Riverside County Multiple Species Habitat Conservation Plan Area. March. Website: https://www.rctlma.org/Portals/3/EPD/consultant/burrowing_owl_survey_instructions.pdf.



4.4.2.5 Jurisdictional Delineation

A field survey of the Development Site was conducted on July 29 and August 4 and 6, 2020. The survey consisted of walking the entire survey area and identifying potentially jurisdictional water features. All accessible portions of the survey areas were walked to determine if any topographic low spots meet the minimum criteria to be considered under the jurisdiction of the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and CDFW. Visual observations of vegetation types and changes in hydrology and soil texture, and culvert locations were used to locate areas for evaluation. Weather conditions during delineation fieldwork was conducive for surveying with clear skies.

USACE regulated waters of the U.S., including wetlands, and RWQCB Waters of the State of California were delineated according to the methods outlined in *A Field Guide to the Identification of the Ordinary High-Water Mark (OHWM) in the Arid West Region of the Western United States*.⁶ The extent of waters of the U.S. was determined based on indicators of an OHWM. The OHWM width was measured at points wherever clear changes in width occurred.

Potential federally regulated wetlands were identified based on the *Wetlands Delineation Manual*⁷ and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region*.⁸ Additional data were recorded to determine if an area fulfilled the wetland criteria parameters. Three criteria must be fulfilled in order to classify an area as a wetland under the jurisdiction of the USACE: (1) a predominance of hydrophytic vegetation, (2) the presence of hydric soils, and (3) the presence of wetland hydrology.

CDFW jurisdiction is delineated by measuring the elevations of land that confine a stream to a definite course when its waters rise to their highest level and to the extent of associated riparian vegetation. Waters of the State of California/CDFW jurisdictional areas were determined by the bankfull channel edge, and RWQCB jurisdictional areas were determined by the edge of the OHWM. In some areas the eroded banks were vertical, so these areas shared the same jurisdictional boundary lines. For additional detailed information on the methodology, refer to **Appendix D-6** of this EIR.

4.4.2.6 Los Angeles Pocket Mouse Surveys

Los Angeles pocket mouse (LAPM) is not federally or State listed as threatened or endangered. However, it is designated as a species of special concern by the CDFW. Surveys were conducted between September 6, 2020 and September 18, 2020. Trapping areas were identified based on previous surveys completed in 2004, and visually confirmed at the time of these surveys. An upland area on either side of the three primary drainages was trapped, and one line was placed in the highly disturbed lands currently being grazed by horses. A total of six grids of 25 traps each were placed.

⁶ United States Army Corps of Engineers (USACE). 2008a. *A Field Guide to the Identification of the Ordinary High-Water Mark (OHWM) in the Arid West Region of the Western United States. A Delineation Manual*. Lichvar and McColley. August.

⁷ United States Army Corps of Engineers (USACE). 1987. *Wetlands Delineation Manual, Technical Report Y-8*. U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi. 100 pp. + append.

⁸ United States Army Corps of Engineers (USACE). 2008b. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region*. September.



Additionally, a separate trapping survey was conducted for the Sun Lakes Boulevard (SLB) Extension. A total of six grids of 25 traps each were placed for that project as well.

Trapping operations were conducted under the authority of CDFW Scientific Collecting Permit (SCP) #SC-190360007. Because the federally listed as endangered, State listed as threatened Stephens' kangaroo rat (*Dipodomys stephensi*) was reported on the Development Site during past trapping efforts, a Stephens' kangaroo rat permit holder was also present for all trapping under authority of federal permit TE14855-2, a CDFW Memorandum of Understanding (MOU), and authorizations attached to CDFW SCP 314. Additionally, the MSHCP Biological Monitoring Program survey protocol was used as guidance for these surveys. For additional detail on the methodology used for these surveys, refer to **Appendix D-2** of this EIR.

4.4.2.7 *Narrow Endemic Plant Species Surveys*

Two target species (Marvin's [Yucaipa] onion and many stemmed dudleya) have potential to occur on the Development Site, or within the Biological Study Area (BSA). The BSA includes all areas of temporary or permanent impacts as a result of the Development Project. Southern California black walnuts (State S4 and California Native Plant Society [CNPS] list 4.2) may also occur. The focused survey was conducted on May 26 and 27, 2020. The survey was conducted during the appropriate time of year (blooming period) for the detection of the target narrow endemic plant species and followed a period of above average rainfall for the 2019–2020 season. Habitat on the site was assessed for suitability. Thick buckwheat stands (100 percent vegetative cover), areas of tall mustard within grasslands (100 percent cover), and areas heavily grazed by horses (0–5 percent vegetative cover) were considered unsuitable and were not surveyed. Areas of suitable to marginally suitable habitat (described as buckwheat scrub and grassland habitats between 5 and 95 percent cover) were surveyed utilizing transects that were adjusted (typically between 5 to 15 meters) based on topography and habitat coverage so that all potential NEPSSA habitat was surveyed to 100 percent. Buckwheat scrub edges, Riversidean alluvial fan sage scrub, non-native grasslands (where not excluded due to previous grazing or tall mustard stands), and riparian scrub/woodland were all surveyed. Areas that had vertical topography were surveyed with binoculars. All flora and fauna detected were recorded in field notes. Representative digital photographs were taken. Plant species of uncertain identity were collected, pressed, and later identified by the University of California, Riverside Herbarium Collections Manager. For additional detail on the methodology used for these surveys, refer to **Appendix D-3** of this EIR.

4.4.3 Existing Environmental Setting

The Development Site is an undeveloped, approximately 533.8-acre site, located south of Interstate 10 (I-10), north of Bobcat Road, west of Sunset Avenue, and east of Highland Home Road. The Development Site is located within Sections 7 and 18, Township 3 South, Range 1 East, within the United States Geological Survey's (USGS) 7.5-minute *Beaumont, California* quadrangle. Development Site elevations range from approximately 2,395 to approximately 2,576 feet. The Development Site is located in the City of Banning, in western Riverside County. The City lies within the San Gorgonio Pass area, an east-west trending valley situated between the San Bernardino and San Jacinto Mountains. Surrounding land uses include residential subdivisions and agricultural uses, public facilities, and open space. The Development Site is undeveloped and is primarily and was historically used for agricultural



practices (grazing). Three deeply incised drainages and associated tributaries are present within the proposed Development Site. City-owned wells are located within the boundaries of the Development Site, and an agricultural storage shelter, and a number of easements for streets, utilities, gas and oil pipelines, landscaping, and communications systems, are located on the Development Site. Refer to **Appendix D-8** of this EIR for a list of candidate, sensitive, or special-status species with potential to occur in the area.

4.4.3.1 Vegetation

The Development Site contains nine vegetation communities/land cover categories: athel tamarisk, buckwheat scrub, disturbed/developed, eucalyptus, non-native grassland, non-native landscaping, non-vegetated streambed, riparian scrub/woodland, and Riversidean alluvial fan sage scrub. Disturbed/developed eucalyptus and other non-native landscaping are the direct result of current or past human activity (buildings, roads, deliberate plantings). Three deeply incised drainages and associated tributaries are present within the proposed Development Site. Vegetation types on the Development Site are shown on **Figure 4.4-1: Vegetation on the Development Site** below. **Table 4.4.A: Land Use Acreage by Habitat (Vegetation Community/Land Cover)** (Table 2 from the DBESP) includes the land use acreages by vegetation habitat.

Table 4.4.A: Land Use Acreage by Habitat (Vegetation Community/Land Cover)

Habitat	Circulation (ac)	General Commercial (ac)	Industrial (ac)	NAP (ac)		Open Space(ac)			Totals (ac)
				SLB Extension	Wells	Parks	Resource	Resource – Buffer	
Athel Tamarisk	–	–	0.04	–	–	–	0.41	–	0.45
Buckwheat Scrub	9.90	0.78	126.73	7.97	–	9.28	26.47	0.91	182.03
Disturbed/Developed (Non-Native/Landscaping)	3.16	0.42	4.25	4.43	0.80	0.11	0.14	–	13.31
Eucalyptus	–	–	–	–	–	–	0.40	–	0.40
Non-Native Grassland	9.53	46.56	265.46	8.04	0.04	3.18	4.97	11.37	349.15
Non-Vegetated Streambed	0.74	0.53	0.0003	0.45	–	–	7.22	–	8.95
Riparian Scrub/Woodland	0.11	0.05	0.13	–	–	–	0.62	–	0.91
Riversidean Alluvial Fan Sage Scrub	–	–	–	0.17	–	–	0.22	–	0.39
Totals	23.6	48.3	396.5	21.0	0.8	12.6	40.5	12.3	555.6¹

Source: Table 2, Western Riverside County Multiple Species Habitat Conservation Plan Determination of Biologically Equivalent or Superior Preservation Report, Sunset Crossroads Project (Wood Environment & Infrastructure Solutions, Inc. 2023d).

¹ Total Development Site acreage excluding NAP areas = 533.8. (NAP areas are included for informational purposes only.)

ac = acres

NAP = Not a Part

SLB = Sun Lakes Boulevard

Athel Tamarisk. This category is mapped in areas dominated by non-native athel tamarisk (*Tamarix aphylla*) trees or shrubs. Other understory species observed include shortpod mustard (*Hirschfeldia incana*), red-brome (*Bromus rubens*), and turkey-mullein (*Croton setiger*).

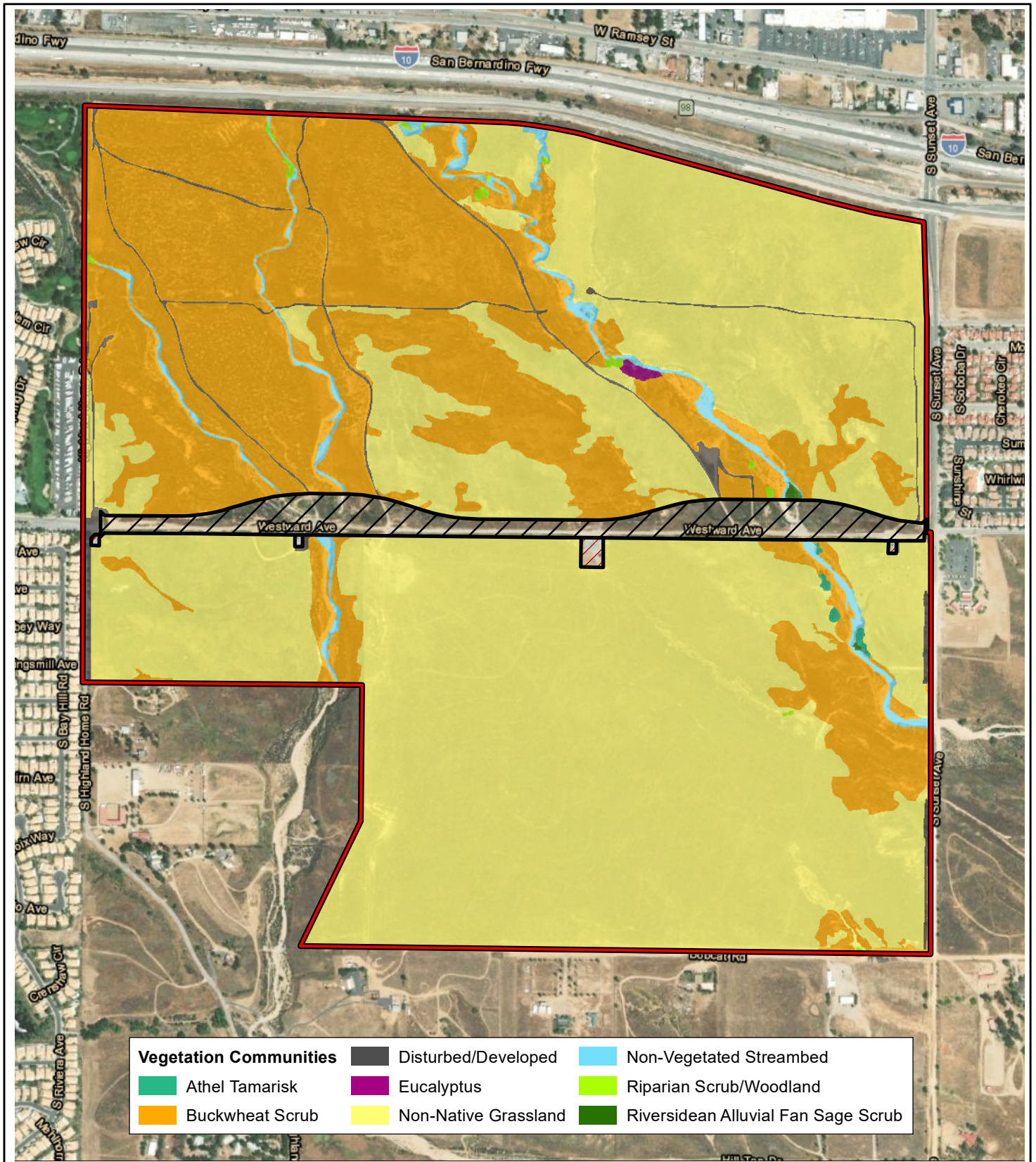


FIGURE 4.4-1

LSA



SOURCE: Nearmap, Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN

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Sunset Crossroads
Vegetation on the Development Site



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Buckwheat Scrub. This habitat is dominated by California buckwheat (*Eriogonum fasciculatum*). Additionally, vegetation includes California sagebrush (*Artemisia californica*), brittlebush (*Encelia californica*), pinebush (*Ericameria pinifolia*), deerweed (*Lotus scoparius*), common sand aster (*Corethrogyne filaginifolia*), turkey mullein, shortpod mustard, and horseweed (*Erigeron canadensis*). Areas within the eroded dry stream areas adjacent to the active channel also contain rough cocklebur (*Xanthium strumarium*), Johnson grass (*Sorghum halepense*), and mugwort (*Artemisia douglasiana*). A few isolated trees of heaven (*Ailanthus altissima*), blue elderberries (*Sambucus nigra* ssp. *caerulea*), and southern California black walnuts (*Juglans californica*) were observed within the buckwheat scrub.

Non-Native Grassland. This habitat is dominated by non-native annual grasses. Some species of grasses that are observed within the grassland include wild oats (*Avena fatua*), cheatgrass (*Bromus tectorum*), and red brome (*Bromus rubens*). Dominant broad-leaved species within this habitat include shortpod mustard, red-stemmed filaree (*Erodium cicutarium*), and annual ragweed (*Ambrosia acanthicarpa*). Late summer dominants include turkey-mullein and vinegarweed (*Trichostema lanceolatum*).

Nonvegetated Streambed. The majority of the drainages within the Development Site contain mostly bare coarse sand with only isolated patches of vegetation including mule fat (*Baccharis salicifolia*), ragweed, mustard, and Johnson grass.

Riparian Scrub Woodland. This habitat is commonly dominated by young willow trees and shrubs. Within the Development Site, the riparian scrub woodland areas are small patches dominated by Fremont cottonwood (*Populus fremontii*), Goodding's black willow (*Salix gooddingii*), red willow (*Salix lasiolepis*), or mule fat.

Riversidean Alluvial Fan Sage Scrub. This is a 'soft chaparral' habitat found on south-facing upland slopes, and along sandy ephemeral streams. It occurs below 3,000 feet elevation and occupies generally drier sites than chaparral. Within the Development Site, scale broom (*Lepidospartum squamatum*) dominates. Other species observed include mugwort and tarragon (*Artemisia dracunculus*).

Eucalyptus and Other Nonnative Landscaping. The Development Site contains a small stand of eucalyptus trees in the north central portion of the Development Site, along Pershing Creek. These trees are not native or naturally occurring and were intentionally planted on the site. Other non-native landscaping occurs along the Existing ROW.

4.4.3.2 Special-Status Plants

In addition to the plant species and habitats noted above, a targeted rare plant species survey was conducted. A field reconnaissance survey of the Development Site was conducted on March 20, 2020 by Wood senior biologist John F. Green (**Appendix D-3** of this EIR). **Table 4.4.B: Narrow Endemic Plant Species** below lists the two species included in the Narrow Endemic Plant Species surveys.



Table 4.4.B: Narrow Endemic Plant Species

Species	Status	Habitat
Marvin’s onion (<i>Allium marvinii</i>)	Federal: None State: S1 CNPS: 1B.2	A perennial bulbiferous herb found in clay substrates within chaparral habitats. It occurs from 2,490 to 3,495 feet elevation. Blooms April to May.
Many stemmed dudleya (<i>Dudleya multicaulis</i>)	Federal: None State: S2 CNPS: 1B.2	A perennial herb found on clay substrate within chaparral, coastal scrub, and valley and foothill grasslands. It occurs from 49 to 2,592 feet elevation. Blooms April through July.

Source: Table 1, Narrow Endemic Plant Species Survey Report, Sunset Crossroads Project (Wood Environment & Infrastructure Solutions 2023).

State Designations:

S1 = Critically Imperiled — Critically imperiled in the State because of extreme rarity (often 5 or fewer occurrences) or because of some factor(s) such as very steep declines making it especially vulnerable to extirpation from the State.

S2 = Imperiled — Imperiled in the State because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the nation or State.

CNPS Designations:

LIST 1B = Plants rare, threatened, or endangered in California and elsewhere.

0.2 = Moderately threatened in California — 20–80% of occurrences threatened/moderate degree and immediacy of threat.

CNPS = California Native Plant Society

Marvin’s onion is a perennial bulbiferous herb belonging to the Alliaceae (Onion family) that blooms April to May. This species is primarily associated with clay substrates in chaparral habitats between 2,490 and 3,495 feet in elevation.⁹ This species is not federally or State listed as threatened or endangered but is designated as a California Rare Plant Rank (CRPR) list 1B, which identifies it as “rare and endangered in California and elsewhere” and is considered by the CNPS to be “fairly endangered in California.” It is also State ranked as S2, indicating that it is “imperiled” in California. Marvin’s onion was not detected on site during the NEPSSA surveys conducted in May 2020 and is therefore considered to be absent from the BSA.

Many stemmed dudleya is a perennial bulbiferous herb belonging to the Crassulaceae (Stonecrops family) that blooms April to July. This species is primarily associated with clay substrates in chaparral, coastal scrub, and valley or foothills grasslands from 49 to 2,592 feet in elevation.¹⁰ This species is not federally or State listed as threatened or endangered but is designated as a CRPR list 1B, which indicates that it is “rare and endangered in California and elsewhere” and is considered by the CNPS to be “fairly endangered in California.” It is also State ranked as S2 meaning that it is “imperiled” in California. Many stemmed dudleya was not detected on site during the NEPSSA surveys conducted in May 2020 and is therefore considered to be absent from the BSA.

Both of these plant species have an affinity for clay soils; however, they are not clay obligates. Historic records for the Marvin’s onion occur less than a mile from the Development Site on soils not mapped as clay. Although habitat is suitable for many stemmed dudleya, the closest recorded occurrence of the species is from approximately 30 miles to the southwest. The Development Site is located at the lower end of the elevational limits for Marvin’s onion and the upper elevational limits for many stemmed dudleya. Neither species has been detected during past survey efforts on the property, so

⁹ California Native Plant Society (CNPS). 2020. Inventory of Rare and Endangered Plants of California, Online Inventory, Seventh Edition. Website: <http://www.rareplants.cnps.org/>.

¹⁰ Ibid.



occurrence potential was considered to be low. Further, none of the soils mapped within the Development Site are considered clay soils. Most are considered sandy loams, which are typically not associated with the target narrow endemic plant species but may still support suitable vegetation communities associated with clay soils. Therefore, focused surveys were directed toward suitable vegetation community components rather than soil type.

The surveys were conducted on May 26 and 27, 2020. Habitat on the site was assessed for suitability. The sandy loam soil types present throughout the Development Site are not typically suitable for target vegetation communities, though they may support target vegetation communities. As such, suitability was determined based on vegetation community rather than soil type. Thick buckwheat stands (100 percent vegetative cover), areas of tall mustard within grasslands (100 percent cover), and areas heavily grazed by horses (0–5 percent vegetative cover) were considered unsuitable and were not surveyed. Areas of suitable to marginally suitable habitat (described as buckwheat scrub and grassland habitats between 5 and 95 percent cover) were surveyed so that all potential NEPSSA habitat was surveyed to 100 percent. Buckwheat scrub edges, Riversidean alluvial fan sage scrub, non-native grasslands (where not excluded due to previous grazing or tall mustard stands), and riparian scrub/woodland were all surveyed. In all, these vegetation types comprise up to approximately 532 acres of the Development Site and were surveyed unless determined to be unsuitable habitat as noted above. None of the targeted rare plant species were detected during the focused NEPSSA surveys. For additional detailed information on the survey methodology, refer to **Appendix D-3** of this EIR. See **Figure 4.4-1** for a map of the vegetation types and distribution on the Development Site.

During these studies, a few isolated southern California black walnut (*Juglans californica*), a CNPS list 4.2 plant, were observed within the drainages that are proposed for conservation. Southern California black walnut is a State S4 and a CNPS list 4.2 plant that is fully covered under the MSHCP. S4 species are uncommon but not rare, with some cause for long-term concern due to declines or other factors. List 4 is a watchlist. Plants with a rank of 4 are of limited distribution or infrequent throughout a broader area in California. No other sensitive, candidate, special-status, threatened, or endangered plant species were observed during surveys conducted at the Development Site.

4.4.3.3 Animal Species

The Development Site currently provides suitable habitat for animal species including fairy shrimp (*Branchinecta lindahli*), burrowing owl, and Los Angeles pocket mouse. Habitat for listed riparian bird species, including least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), is not present at the Development Site. The MSHCP indicates the Development Site is not within an MSHCP-designated amphibian survey area. The Development Site is also not within a CASSA, nor is there suitable habitat for Delhi Sands flower-loving fly.

Fairy Shrimp. As potential fairy shrimp habitat was determined to exist on the Development Site (see **Section 4.4.3.4** below) a protocol-level fairy shrimp survey was conducted in the wet and dry seasons



of 2020–2021^{11,12} to determine if fairy shrimp were present. Surveys were conducted in accordance with the USFWS protocol: *Survey Guidelines for the Listed Large Branchiopods*.¹³

The common versatile fairy shrimp, which is not a special-status species, was the only fairy shrimp species detected on the Development Site during the truncated 2005 survey. The standard text for California fairy shrimp¹⁴ reports that cysts collected from a dry pool in the northeastern portion of the Development Site were reared in the laboratory and identified as New Mexico fairy shrimp (*Streptocephalus dorotheae*) in 1992. This is the only verified record of this species in California; however, New Mexico fairy shrimp is not considered a special-status species. A 1990 report from the Development Site reportedly stated that Riverside fairy shrimp (*Streptocephalus woottoni*) were observed in pools on and around the Development Site.¹⁵

Surveys for the Development Site immediately east of Sunset Crossroads, performed in 2012–2013, also detected versatile fairy shrimp during the wet season¹⁶. The dry season survey for that project found *Streptocephalus* cysts and two types of *Branchinecta* cysts, including versatile fairy shrimp. The report speculated that the *Streptocephalus* cysts were New Mexico fairy shrimp, based on the 1992 record above, but did not positively identify them. It further speculated that the second *Branchinecta* species was alkali fairy shrimp (*Branchinecta mackini*), another common species without special status; however, that identification was also not confirmed, and there are no known records of alkali fairy shrimp in western Riverside County.

Numerous pools or potential pools have been identified as fairy shrimp habitat or potential fairy shrimp habitat from review of historic aerial photography and during 2020–2021 surveys. Refer to **Appendix D-4** of this EIR for detailed information on quantity and location of these pool features on the Development Site. Only the common versatile fairy shrimp was detected during 2020–2021 focused surveys, both in the wet and dry seasons. Only the on-site records of versatile fairy shrimp and New Mexico fairy shrimp should be considered verified at this time, as the report of Riverside fairy shrimp is second-hand and the circumstances of its discovery and the experience of the person reporting it are unknown. The putative alkali fairy shrimp cysts discovered just off site were not positively identified. While listed species of fairy shrimp have the potential to occur within or near the Development Site, no surveys, historically or current, have positively identified any species other than the non-listed versatile fairy shrimp and New Mexico fairy shrimp on the Development Site.

Burrowing Owl. One active burrow hosting at least two burrowing owls was detected during the 2020 burrowing owl survey effort¹⁷ (survey report attached as an appendix). Burrowing owls were still present there as of the most recent site visit in June 2021. Additional potential burrowing owl habitat

¹¹ Wood. 2023. Sunset Crossroads Project, Western Riverside County Multiple Species Habitat Conservation Plan Determination of Biologically Equivalent or Superior Preservation Report, Sunset Crossroads Project. June.

¹² Wood and Helm Biological Consulting. 2023. Dry Soil Analysis and Cyst Culturing for the Detection of Federally-Listed Large Branchiopods at the Sunset Crossroads Development Project, Riverside County, California. June.

¹³ United States Fish and Wildlife Service (USFWS). 2015. Survey Guidelines for the Listed Large Branchiopods. May 31.

¹⁴ Eriksen, Clyde, and D. Belk. 1999. Fairy shrimps of California's puddles, pools, and playas. Mad River Press, Eureka, CA.

¹⁵ The Planning Associates (TPA). 2004. Biological Assessment: Sunset Crossroads Project Site. December.

¹⁶ City of Banning. 2016. Rancho San Geronio Specific Plan EIR. Section 5.4 Biological Resources. June. Website: <https://www.ci.banning.ca.us/ArchiveCenter/ViewFile/Item/1519> (accessed August 30, 2023).

¹⁷ Wood Environment & Infrastructure Solutions, Inc. 2023. Focused Surveys for the Burrowing Owl, Sunset Crossroads Project. June.



containing burrows suitable for burrowing owls are also present on site, but no additional burrowing owls or burrowing owl sign were detected during any of the burrowing owl surveys or any other survey. Two burrowing owls were also incidentally detected on site in 2004.¹⁸

Los Angeles Pocket Mouse. Within the 398.2-acre LAPM survey area, potential habitat ranges from high quality in the drainages to low-moderate quality in the uplands.

As noted above, it is presumed that the riparian habitat in the drainages contains LAPM so the 2020 surveys consisted of sampling of the uplands only for the Development Project. Only three LAPM detections were made in the uplands, and all were found in the northwestern portion of the Development Site. No LAPM were detected for the SLB Extension. These results show that LAPM do occur in on-site upland habitats.

The 2005 survey found LAPM to be widespread in the drainages but placed no traps in the uplands. The 2004 survey appears to have trapped uplands only, specifically targeting habitat most suitable for Stephens' kangaroo rat (*Dipodomys stephensi*). No LAPM were detected. Copies of the 2002 report are not provided; however, those surveys incidentally detected LAPM in drainages only.¹⁹

The persistence of LAPM on site since the 2002 survey and the presence of LAPM in off-site contiguous habitat to the southeast indicate that the on-site habitat and LAPM population has long-term conservation value and connectivity to other populations to the southeast. It is assumed that LAPM occur in the 8.99 acres of riparian habitat within the deeply excised drainage features on the Development Site. Suitable habitat occurs along the upland areas of the washes and these riparian habitats.

4.4.3.4 *Species Not Adequately Conserved under the MSHCP*

Grasshopper Sparrow. During surveys conducted in 2020 and 2021, no grasshopper sparrow (*Ammodramus savannarum*) were observed. However, habitat for this species does occur on the Development Site. This species migrates through the area of the Development Site and may be present during migration and the winter months. During migration, this species occupies riparian areas and wetlands. No wetland habitat is present on the Development Site. However, approximately 8.99 acres of riparian habitat is present on site, of which approximately 1.07 acres will be impacted.

4.4.3.5 *On-Site Aquatic Resources*

Three named, deeply incised drainages (Pershing Creek, Smith Creek, and Highland Wash) and their tributaries are present within the proposed Development Site. There are no State or federally protected wetlands within or in the vicinity of the Development Site.

Vernal Pools. Seasonal pooling suitable as fairy shrimp habitat was also determined to be present on the Development Site. Although no clay soils are mapped on the Development Site, non-vernal pool potential fairy shrimp habitat is present on the Development Site including stock ponds, ephemeral pools, road ruts, and human-made depressions. Such pools have been noted during various 2020 field

¹⁸ Impact Sciences, Inc. 2005. Draft Environmental Impact Report (EIR), Five Bridges Specific Plan, SCH No. 2004051134. November.

¹⁹ The Planning Associates (TPA). 2004. Biological Assessment: Sunset Crossroads Project Site. December.



surveys and were also identified from the 2005 fairy shrimp survey noted below and from study of past aerial photography.

During the fairy shrimp surveys, jurisdictional delineation, focused plant surveys, and other site visits, fairy shrimp habitat was observed for signs of vernal pool ecosystems. From the MSHCP²⁰:

Vernal pools are ephemeral wetlands that form in shallow depressions underlain by a substrate near the surface that restricts the downward percolation of water. Depressions in the landscape fill with rainwater and runoff from adjacent areas during the winter and may remain inundated until spring or early summer, sometimes drying more than once during the wet season. Smaller pools can fill and dry, and larger pools can hold water longer and may in the deeper portions support species that are more representative of freshwater marshes. Vernal pools are well-known for their high level of endemism and abundance of rare, threatened, or endangered species. Many vernal pools are characterized by concentric rings of plants that flower sequentially as the pools dry. Vernal pools are dominated by native annual plants, with low to moderate levels of perennial herbaceous cover.

None of the on-site seasonal pooling features that are habitat for fairy shrimp were determined to be a vernal pool ecosystem. These features were barren or overrun by non-native plant species and occurred within compacted soil in road ruts and other human alterations.

4.4.4 Regulatory Setting

Policies and regulations that potentially apply to the biological resources associated with the Development Project are listed below. Any impacts that conflict with these policies and regulations could be considered significant under CEQA.

4.4.4.1 Federal Regulations

Bald and Golden Eagle Protection Act. The Bald and Golden Eagle Protection Act outlaws “taking” bald or golden eagles or their parts, without a permit issued by the Secretary of the Interior.

Clean Water Act. The Clean Water Act regulates pollutant discharges into waters of the U.S. and sets quality standards for surface waters.

Federal Endangered Species Act. The USFWS, pursuant to the Federal Endangered Species Act (FESA), protects endangered and threatened species. FESA defines an endangered species as a species in danger of extinction throughout all or a significant part of its range and a threatened species as one that is likely to become endangered in the foreseeable future. The USFWS also identifies species proposed for listing as endangered or threatened. Other than for federal actions, there is no formal protection for candidate species under FESA. However, consultation with the USFWS regarding species proposed for listing can prevent Development Project delays that could occur if a species is listed prior to Development Project completion.

²⁰ Western Riverside County Regional Conservation Authority (WRCRCA). 2021. Western Riverside County Multiple Species Habitat Conservation Plan. Website: <https://www.wrc-rca.org/document-library/> (accessed April 20, 2022).



Migratory Bird Treaty Act. The federal Migratory Bird Treaty Act (MBTA) governs the take, possession, import, export, transport, selling, purchasing, or bartering of migratory birds and their eggs, parts, and nests. Section 704 of the MBTA states that the U.S. Secretary of the Interior is authorized and directed to determine if, and by what means, the take of migratory birds should be allowed and to adopt suitable regulations permitting and governing take while ensuring that take is compatible with protection of the species. Most bird species are protected under the MBTA.

4.4.4.2 *State Regulations*

California Environmental Quality Act. CEQA requires all public agencies and local governments to analyze and disclose potential environmental impacts of proposed development projects or discretionary land use decisions. Beyond disclosure, CEQA seeks to reduce or eliminate potential environmental impacts through public comment and mitigation measures.

California Fish and Game Code – Nesting Birds and Raptors. Under the California Fish and Game Code, it is unlawful to take, possess, or needlessly destroy any bird or the nests or eggs of any bird species except as otherwise provided in the California Fish and Game Code and its regulations. This code also specifically protects raptors, including owls. The CDFW considers a disturbance that results in nest abandonment or loss of reproductive effort as take. Disturbances of active nesting territories should be avoided during the nesting season.

California Endangered Species Act. The CDFW, through provisions of the California Administrative Code and policies formulated by the California Fish and Game Commission, regulates plant and animal species in danger of, or threatened with, extinction based on the list of endangered, threatened, and candidate species developed by the Fish and Game Commission. Endangered species are native species or subspecies of plants and animals that are in serious danger of becoming extinct throughout all or a significant part of their range. Threatened species are those species that, although not presently threatened with extinction, are likely to become endangered in the foreseeable future without special protection and management. Candidate species are species that the Fish and Game Commission has formally noticed as being under review for addition to the list of endangered or threatened species or as a species proposed for listing.

California Native Plant Protection Act. The California Native Plant Protection Act requires all State agencies to implement programs to conserve endangered and rare native plants. The act gives CDFW authority to designate native plants as “endangered” or “rare.” The act prohibits the take of any plants designated as endangered or rare, with some exception criteria.

Porter-Cologne Water Quality Control Act. Porter-Cologne regulates all discharged pollutants, including runoff from projects, that could affect the State’s water quality. Any applicant or jurisdiction proposing to discharge waste must file a Report of Waste Discharge with the appropriate Regional Water Quality Control Board or State Water Resources Control Board. Regional Water Quality Control Boards are responsible for implementing Clean Water Act Sections 303(d), 401, and 402. Porter-Cologne also requires the development and review of basin plans that identify beneficial uses of the State’s major rivers and groundwater basins and establishes water quality goals for those waters.



4.4.4.3 Regional Regulations

Western Riverside County Multiple-Species Habitat Conservation Plan. The MSHCP covers 146 species and 14 natural communities within a plan area of about 1.26 million acres, or 1,970 square miles, extending from the western County boundary to the San Jacinto Mountains. Roughly 506,000 acres are planned for conservation. The MSHCP was implemented in 2003 and is administered by the Western Riverside County Regional Conservation Authority (RCA).

The purpose of the MSHCP is to conserve large contiguous blocks of habitat to maintain species richness and density, to ensure population viability, to protect habitats from encroachment, and to reduce non-native species invasion. The criteria area consists of quarter-section (161-acre) criteria cells within the MSHCP planning boundary that are used to assemble 153,000 acres of new conservation land (the Conservation Area). The MSHCP provides for the assembly of a Reserve consisting of Core Areas and Linkages for the conservation of Covered Species.²¹ The MSHCP provides an incentive-based program, the Habitat Evaluation and Acquisition Negotiation Strategy, for adding land to the MSHCP. A Core is the largest planning unit, and its extent is large enough to support the population of several species. A Linkage is a habitat connection between Cores that is wide and long enough to provide live-in habitat and movement corridors for plants, herbivores, and carnivores. Projects in proximity to the MSHCP Conservation Area may result in edge effects that would adversely affect biological resources within the MSHCP Conservation Area. MSHCP Urban/Wildlands Interface Guidelines (MSHCP Section 6.1.4) are intended to reduce such indirect effects.

The MSHCP requires focused surveys for certain plant and animal species for development sites within designated survey areas when potential suitable habitat is present. In addition to species that have designated survey areas, surveys for listed riparian birds are required when suitable riparian habitat is present, and surveys for listed fairy shrimp species are required when vernal pools or other suitable habitat is present.

The MSHCP sets forth conservation goals for each covered species. A development project must either demonstrate that the conservation goals for each covered species identified within the development site have been met or prepare a Determination of Biologically Equivalent or Superior Preservation (DBESP) Report enumerating mitigation measures to achieve equivalent or superior preservation for each not conserved covered species through deed restriction, conservation easement, or other appropriate method. Mitigation measures may include restoration and/or enhancement of on-site and/or off-site habitat.

The City of Banning was a party to the Implementing Agreement for the MSHCP and is a member of the RCA. Thirteen other cities were parties to the original Implementing Agreement, and four additional cities have become member agencies of the RCA since the Implementing Agreement was adopted in 2004.

The Development Site is in the MSCHP plan area, but not within any Criteria Cells, Core Groups, Cores, or Linkages. The Development Site is in an area where several surveys are required: a mammal species survey, a narrow endemic plant species survey, and a burrowing owl survey.

²¹ Ibid.



“Covered species adequately conserved” under the MSHCP means covered species where the species objectives set forth in the MSHCP are met and which are provided take authorization through the Natural Community Conservation Plan (NCCP) Permit and, for animals, through the FESA Section 10(a) Permit issued for the MSHCP.

MSHCP Mitigation Fees. Developments within the MSHCP Plan Area are charged mitigation fees, which are one of the primary sources of funding for implementing the MSHCP. Mitigation fee amounts effective July 1, 2023 were as follows:

- **Residential Density <8.0 Dwelling Units Per Acre**.....\$4,236/dwelling unit
- **Residential Density Between 8.0 and 14.0 Dwelling Units Per Acre**\$1,766/dwelling unit
- **Residential Density Greater Than 14.0 Dwelling Units Per Acre**\$781/dwelling unit
- **Commercial** \$19,066/acre
- **Industrial**..... \$19,066/acre

Fees for projects within the City of Banning are payable to the City.

MSHCP Construction Guidelines. Development Project construction activities would be required to comply with Construction Guidelines set forth in Section 7.5.3 of the MSHCP Plan document and enumerated in the DBESP report (see **Appendix D-8** to this Draft EIR).

MSHCP Best Management Practices. The design and construction of projects developed pursuant to the Specific Plan would be required to comply with MSHCP best management practices (BMPs) set forth in **Appendix C** of the MSHCP Plan document enumerated in the DBESP report (see **Appendix D-8** to this Draft EIR).

4.4.4.4 Local Regulations

County of Riverside Dark Skies Ordinance. The County’s dark skies ordinance requires exterior lights to be shielded from shining upward and be directed away from public streets and adjacent parcels. The policy does not apply to streetlights. While the southern portion of the Development Site is currently in the county, these parcels will be annexed into the City prior to construction of the Development Project. As a result, this ordinance would not apply to the Development Project.

City of Banning General Plan. The City of Banning’s General Plan is the guiding document for development within the City. The General Plan designates open space land uses within the City. In order to maintain and enhance the City’s available open space, the following goals, policies, and programs are identified in the City’s General Plan Biological Resources Element and are relevant to resource conservation for the proposed Development Project:

Goal: A pattern of community development that supports a functional, productive, harmonious and balanced relationship between the built and natural environment.

Policy 1: The City shall continue to participate in the preservation of habitat for endangered, threatened and sensitive species.



Program 1.A: Through the Western Riverside MSHCP, maintain an accurate and regularly updated map of sensitive plant and animal species and habitat in Banning and its planning area.

Program 1.B: The City shall participate in the Western Riverside County Multiple Species Habitat Conservation Plan.

Program 1.C: City staff shall continue to request biological resource surveys for new development.

Policy 2: As part of the development review process, the City shall evaluate projects based on their impact on existing habitat and wildlife, and for the land's value as viable open space.

Program 2.A: The City shall encourage developers to recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for local species.

Program 2.B: The City shall make available at City Hall a listing of planting materials that emphasizes native vegetation, but may also include non-native, plants that are compatible with the local environment.

Policy 3: The City shall encourage and cooperate with other agencies in establishing multiple use corridors that take advantage of drainage channels and utility easements as wildlife corridors, public access and links between open space areas and the built environment.

Program 3.A: The City shall consult and coordinate with the Riverside County Flood Control District to encourage the establishment of a system of multiple use corridors for movement of people and wildlife between open space areas.

Policy 4: Drainage channels, utility corridors and pipeline easements shall be preserved in natural open space to the greatest extent possible.

Policy 5: The City shall promote the protection of biodiversity and encourage an appreciation of the natural environment and biological resources.

Program 5.A: The City shall coordinate with the Banning and Beaumont Unified School Districts, the County and other agencies as identified, to provide educational programs that offer an understanding of the region's natural environment and make the public aware of biological resource issues.

City of Banning Municipal Code. The following provisions from the City's Municipal Code help minimize light and glare impacts associated with new development projects and are relevant to the proposed Development Project.

Section 17.12.170 (Lighting). This section regulates lighting for commercial and industrial projects. Lighting should only be the minimum required for safety and security and should be limited to 18 to 25 feet in height. Smaller pedestrian-oriented lighting is encouraged in downtown commercial districts. Lighting should also be integrated into the structure's



architecture to the greatest extent possible. All lighting fixtures shall have no visible lighting source, and must be shielded and directed downward to confine light spread within the Site boundaries.

Section 17.24.100 (Lighting). General development standards related to lighting requires that lights do not blink, flash, or be of unusually high intensity or brightness. Exterior lighting shall be shielded or recessed and directed downward and away from adjoining properties and public rights-of-way.

City of Banning Code of Ordinances – Trees and Shrubs. The City of Banning has put forth a series of ordinances concerning placement, removal, and maintenance of trees and other vegetation on developed properties within the City. The Development Project would be required to comply with these ordinances, including Ordinances 12.48.010-12.48-080.

4.4.5 Thresholds of Significance

The City has not established local CEQA significance thresholds as described in Section 15064.7 of the *CEQA Guidelines*. Therefore, significance determinations utilized in this section are from Appendix G of the *CEQA Guidelines*. According to Section I of Appendix G to the *CEQA Guidelines*, the Development Project would result in a significant impact to biological resources if the Development Project would:

- Threshold 4.4.1:** Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service.
- Threshold 4.4.2:** Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service.
- Threshold 4.4.3:** Have a substantial adverse effect on federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Threshold 4.4.4:** Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Threshold 4.4.5:** Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Threshold 4.4.6:** Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.



4.4.6 Impact Analysis

The Development Project seeks to entitle and permit development of the 533.8-acre Development Site with 47.9 acres of freeway-oriented General Commercial land uses, 392.0 acres of Industrial land uses, and the remaining 89.0 acres designated as Open Space – Resource (53.0 acres), Open Space – Parks (12.6 acres) or assigned for circulation features (28.3 acres). Pershing Creek, Smith Creek, and Highland Wash and associated features are located within the Development Site. These areas, designated Planning Areas 13–19, total 40.5 acres and will remain undeveloped with implementation of the Development Project, with the exception of activities required to allow for the construction and maintenance of roadway crossings (Lincoln Street and Highland Home Road) and utility infrastructure.

Biological resource areas of the Development Site slated for development, including the areas within the drainages identified for roadway and infrastructure development, would be permanently and irreversibly impacted. Drainage and adjacent upland areas would be preserved as open space within the Development Site. Within the 12.6 acres comprising Planning Area 11, 5 acres are proposed to be dedicated for the development of a public passive park which may include features such as, but not limited to, a tot lot playground, picnic tables, trails, walking paths, and restrooms. The balance of Planning Area 11 will be retained as passive open space which may include trails, providing a buffer to residences in the Sun Lakes Community west of the Development Site. Planning Area 12, encompassing 12.3 acres along the western boundary of the Development Site, is intended to provide an open space buffer between the existing Sun Lakes Community to the west and the proposed industrial development. Planning Area 12 may contain soft surface trails. This open space is not intended for mitigation purposes. In addition to acting as a buffer, the City has requested that portions of Planning Area 12 be set aside to accommodate public facilities, including a future reverse osmosis facility (2.3 acres) and, in the event a fire station is proposed for the site in the future, a site for that use (1.5 acres).

A fire protection plan has been prepared for the Development Project.²² It states that there should not be a need for fuel modification within environmentally sensitive areas/open space as the fire protection plan has been planned to address fuel management needs within the Development Site and comply with the fire code.

A DBESP has been prepared for the Development Project and is included as **Appendix D-8** of this Draft EIR. Mitigation described in the DBESP is incorporated into the Development Project through **Mitigation Measures MM BIO 1 through MM BIO-15**.

²² Dudek. 2023. Fire Protection Plan, Sunset Crossroads, County of Riverside.



4.4.6.1 Impact on Candidate, Sensitive, or Special-Status Species

Threshold 4.4.1: Would the Development Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?

The following analyzes the potential of the Development Project to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or the USFWS. The following species have been identified as species meeting the above criteria and may occur at the Development Site:

Burrowing Owl. Focused burrowing owl surveys were conducted in accordance with the MSHCP on multiple dates between March 2020 and June 2021 following burrowing owl survey protocols. The Development Site was surveyed on foot, mapping the locations of potential burrows or “burrow surrogates” suitable for burrowing owl use. During each of the surveys, one pair of burrowing owls was detected at the Development Site. The location of the burrowing owl colony is in the southeast portion of the Development Site. While the pair has not moved from this location during the survey period, they have the potential to occupy other areas within the Development Site at any time, because the site contains other suitable habitat that is currently unoccupied. Construction at the Development Site would permanently impact the occupied colony, resulting in a direct impact to the colony. During construction, noise, dust, and vibration would directly impact the known colony on the southeast portion of the Development Site. Additional surveys, including pre-construction surveys, would need to be conducted to determine occupancy of the known colony and identify active or passive relocation sites either on the Development Site or at the adjacent MSJC Site. The on-site burrowing owls and most, if not all, other burrows, if any identified on the Development Site through future surveys would be permanently impacted by implementation of the Development Project, as they would need to be relocated. The on-site burrowing owls may suffer indirect effects as a result of their forced relocation. These would be minimized and mitigated through measures approved by the appropriate agencies as identified below, specifically **Mitigation Measures MM BIO-7** and **MM BIO-8**. This may include, but is not limited to, monitoring of relocation-site(s).

Fairy Shrimp. FESA lists two species of fairy shrimp potentially found at the Development Site or in the BSA as threatened or endangered. These species include the threatened vernal pool fairy shrimp (*Branchinecta lynchi*) and the endangered Riverside fairy shrimp.

Implementation of the proposed Development Project would permanently impact most, if not all, fairy shrimp habitat and potential fairy shrimp habitat on the Development Site. The Development Site contains seasonal pooling suitable as fairy shrimp habitat. As described above, wet and dry season focused surveys were conducted for listed fairy shrimp species. Results of the surveys identified only the common versatile fairy shrimp, which is not State or federally listed as threatened or endangered, nor is it a special-status species. Therefore, no impacts would occur to listed fairy shrimp species or species identified and covered by the MSHCP, and no mitigation or avoidance is required.



Los Angeles Pocket Mouse. This species is designated as a species of special concern by CDFW. Surveys conducted March 20, 2020, as well as a review of past documents prepared for the Development Site and vicinity, determined that LAPM habitat was present and that the Development Site is within the MSHCP designated LAPM survey area, so focused surveys were conducted for the LAPM. Specifically, Los Angeles pocket mouse were detected at drainages within the Development Site during the 2002 and 2005 surveys, and again during surveys conducted in 2020 in limited upland areas of the Development Site. Because Los Angeles pocket mouse has been persistently detected in the drainages on the Development Site, the habitat and population at the Development Site has long-term conservation value.

The on-site drainages are assumed to be occupied by LAPM based on 2002 and 2005 survey results, and portions of the upland are assumed to be occupied based on 2020 survey results. With the exception of 40.5 acres of drainages and their immediately adjacent uplands (Open Space – Resource), MSHCP designated Los Angeles pocket mouse habitat on the Development Site would be directly affected by the Development Project, including all areas where LAPM populations were identified during the 2020 surveys. In total, 89.3 percent (338.1 acres of 378.6 acres) of the habitat would be affected. While the habitat quality on site ranges from low to moderate, upland surveys in 2002, 2005, and 2020 identified only an apparent low-density population in 2020 in the northwestern portion of the Development Site. The northwestern locations would be permanently impacted by the Development Project as well as 1.07 acres within the drainages associated with road and utility crossings.

Los Angeles pocket mouse populations may be directly affected by noise, dust, and vibration due to activities adjacent to the 1.07 acres being impacted within drainages on site. Areas known to be occupied by LAPM will be 88.1 percent conserved (7.92 of 8.99 acres) as well as a surrounding buffer of approximately 32.58 acres. Plans to restore or enhance a minimum 3.21 acres of Development Site riparian habitat may bring that figure above 90 percent. Where new roads cross the riparian corridors, undercrossings suitable for safe passage of wildlife will be constructed.

These effects will be reduced through **Mitigation Measures MM BIO-1 through MM BIO-6** identified below and by fencing conserved areas to prevent entry by construction personnel or equipment (**MM BIO-9**). **MM BIO-6** requires compliance with the DBESP, which provides a regulatory framework to reduce potential direct and indirect impacts to LAPM during construction and operation. Upland conservation areas will be retained through current Development Project design, as noted in **MM BIO-12**. As noted in **Table 4.4.C**, these areas include 8.99 acres identified for conservation, of which 3.21 acres will be restored or enhanced from the existing condition. **Amphibians.** Focused surveys for amphibians were not conducted for the Development Project, as the required aquatic habitat is not present on the Development Site. Impacts, whether direct or indirect, to amphibian species with MSHCP designated survey areas are not anticipated to occur as a result of Development Project implementation.

Delhi Sands Flower-Loving Fly. Focused surveys for the Delhi Sands flower-loving fly were not conducted for the Development Project, as there is no habitat for the species. Impacts, whether direct or indirect, to the Delhi Sands flower-loving fly are not anticipated to occur as a result of Development Project implementation.



Other Animal Species. Appendix D-7, Table 6 of this Draft EIR shows all the species not adequately conserved in the MSHCP and their likelihood of occurrence on the Development Site. These species are further discussed on pp. 9–13 of the MSHCP. While many of the species listed have potential to occur on the Development Site, only those listed above are criteria, sensitive, or special-status species and are known to occur on the Development Site. A wide variety of bird species, including many criteria, sensitive, or special-status species, have potential to occur on the Development Site, particularly while passing through during migration. These species are all protected under the MBTA as discussed in **Section 4.4.4.1** above. All other animal species listed in the **Appendix D-8** table would be protected under federal, State, and local policies identified above, including the Bald and Golden Eagle Protection Act, Federal and State Endangered Species Acts, Migratory Bird Treaty Act, California Fish and Game Code, California Native Plant Protection Act, and the Western Riverside MSHCP. Through compliance with all applicable policies identified above, and with implementation of **Mitigation Measures MM BIO-1 through MM BIO-6** and **Mitigation Measures MM BIO-9 through MM BIO 15** listed below, impacts would be *less than significant*.

Plant Species. The Development Site is not within a CASSA for Criteria Area Plant Species (CAPS). Because the Development Site is not located within a CASSA for plants, focused surveys for CAPS are not required for MSHCP compliance and therefore were not conducted for the Development Project. As indicated above, it was determined that suitable habitat is present for NEPS of Marvin’s onion and many stemmed dudleya. Therefore, focused surveys were conducted for these NEPS. Neither Marvin’s onion nor many stemmed dudleya were detected on site during the NEPSSA surveys conducted in May 2020 and are therefore considered to be absent from the BSA. Therefore, no impact on these plant species would occur.

As noted in the discussion above and identified in **Appendix D-8** of this Draft EIR, a number of criteria, sensitive, or special-status plant or animal species have potential to occur on the Development Site. During surveys conducted as noted above, only burrowing owl and Los Angeles pocket mouse have been observed on the Development Site and only sensitive fairy shrimp species, Marvin’s (Yucaipa) onion, and many stemmed dudleya have been observed and documented in the vicinity of the Development Site, though not on the Development Site. No other criteria, sensitive, or special-status species identified in local or regional plans, policies, or regulations, or identified by the CDFW or USFWS have been identified on the Development Site. Other special-status plant species identified in the General Plan as having potential to occur in the vicinity of the Development Site were not observed during surveys and were determined to be unlikely to occur due to habitat conditions at the Development Site. **Table 4.4.C: Development Site Riverine/Riparian Acreage** and **Table 4.4.D: Development Site Riverine/Riparian Impacts and Conservation** (provided later) indicate the riparian and riverine habitat present on site and acreages conserved and impacted. These areas are critical for the species known to occur that could occur on site.

Level of Significance Prior to Mitigation: Potentially Significant Impact.

Mitigation Measures: The following mitigation measures (MMs) would be applied to the Development Project:

MM BIO-1 Construction Guidelines. Construction activities will follow the Construction Guidelines found in Volume 1, Section 7.5.3 of the MSHCP.



- MM BIO-2** **Equipment Staging.** Equipment and vehicle storage, fueling, and material staging and storage will be in previously paved or previously disturbed, upland areas with no risk of direct drainage into riparian/riverine areas or other sensitive habitats. Necessary precautions shall be taken to prevent the release of cement or other toxic substances into riparian/riverine areas. Development Project related spills of hazardous materials shall be reported to appropriate entities and shall be cleaned up immediately with contaminated soils removed to approved disposal areas.
- MM BIO-3** **Worker Environmental Awareness Program (WEAP).** A qualified biologist will present to each Development Site employee a worker environmental awareness training prior to the initiation of work. They will be advised of the riparian/riverine resources and any other sensitive environmental resources in the Development Project area, the steps to avoid impacts to such, and the potential penalties for violating those steps. At a minimum, the program will include the following topics: occurrence of the sensitive biological resources in the Development Project area and their general ecology, sensitivity of such to human activities, legal protection afforded these species, penalties for violations, reporting requirements, and Development Project features designed to reduce the impact area. A sign-in sheet will be utilized to identify all workers that have completed the WEAP training. If additional employees are added to the Development Project after the initiation, they will receive instruction prior to working on the Development Project. They will also need to sign the sign-in sheet to provide proof of completion. For some projects with numerous contractors entering the project at different stages of the project, the WEAP training can be video-taped and shown to additional workers rather than completing the training in person.
- MM BIO-4** **Materials and Spoils Control.** Development Project materials will not be cast from the Development Site, and Development Project related debris, spoils, and trash will be contained daily and removed to a proper disposal facility.
- MM BIO-5** **Vehicle Washing.** It will be required in the Development Project specification that the contractor will wash equipment prior to entering the vicinity of areas to be conserved. This will reduce the potential for introduction of non-native plant, animal, viral, or bacterial species to the areas that will otherwise be undisturbed. All vehicles shall be washed at a distance that would remove the likelihood of runoff from entering any adjacent riverine/riparian areas.
- MM BIO-6** **MSHCP Best Management Practices (BMPs).** Development Project activities will be in compliance with BMPs, as applicable, detailed in MSHCP *Volume 1, Section 7.5.3*, and *Appendix C* of the MSHCP. The Project Determination of Biologically Equivalent or Superior Preservation (DBESP) would provide regulations consistent with the MSHCP BMPs, and the Development Project would comply with all DBESP regulations.



MM BIO-7 Burrowing Owl Impacts. To avoid direct and indirect impacts to burrowing owl, a pre-construction survey shall be conducted in areas to be disturbed by a qualified biologist within 30 days prior to ground disturbance at the Development Site and submitted to the City. If construction activities occur during the breeding season (February 1 through August 31) and burrowing owl is determined to be present within any portion of the study area during the pre-construction survey, consultation with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) shall take place, and no construction activity shall take place within a 300-foot buffer zone. This buffer area may be reduced at the discretion of the biological monitor in consultation with CDFW and/or USFWS, until it has been determined that the nest/burrow is no longer active and all juveniles have fledged the nest/burrow.

To avoid active nests, no grading or heavy equipment activity shall take place in the buffer zone during the breeding season (February 1 through August 31). If construction activities cannot avoid the nesting season and an occupied burrow is identified in a proposed development area, the burrows shall be avoided or the owls passively relocated. A Burrowing Owl Protection and Relocation Plan will be required and is included under **MM BIO-8**.

MM BIO-8 Burrowing Owl Protection and Relocation Plan. Within 90 days of the commencement of grading, a Burrowing Owl Protection and Relocation Plan would be drafted and reviewed by CDFW to ensure MSHCP guidelines for protection and/or relocation are followed. As part of that plan, one-way doors shall be installed as part of a passive relocation program. Burrowing owl burrows shall be hand-excavated by a qualified biologist when determined to be unoccupied and backfilled to ensure animals do not re-enter. Disturbance to active burrows shall be minimized to the extent feasible.

If less than three pairs of burrowing owl are identified on the Development Site during pre-construction clearance surveys, no additional mitigation is required. If three or more pairs of burrowing owl are identified, MSHCP guidelines require additional conservation land be set aside to off-set the significant impacts to burrowing owl in a project site outside of a cell criteria area. In all scenarios, including the detection of additional burrowing owls, mitigation and equivalency will be achieved through the Development Project following all MSHCP guidelines and the direction of the Environmental Programs Department, Western Riverside County Regional Conservation Authority, and/or the Wildlife Agencies.

MM BIO-9 Los Angeles Pocket Mouse. Prior to commencement of grading, nighttime trapping surveys will occur in areas within the known habitat and other areas providing the key constituent habitat elements based on historical surveys and those conducted for the Development Project, in riparian areas (the three identified drainage features) and adjacent upland habitat that will be permanently impacted by the Development Project. An exclusion fence will be installed along the perimeter of the construction footprint associated with the



drainage crossings. Trapping and relocation of LAPM shall be performed immediately prior to grading or other construction on the Development Site within areas known to be occupied by LAPM within the existing drainage features and/or uplands. Where new roads cross the riparian corridors, undercrossings suitable for safe passage of wildlife will be constructed. The exclusion fencing will be monitored through construction activities within suitable habitat to ensure animals do not return.

Restoration of a total of 3.21 acres of Development Site riparian habitat may bring project related impacts to a level that allows for 90 percent conservation of suitable habitat within the Development Site. Mitigation and equivalency may be achieved through the conservation of 7.92 of 8.99 acres of riparian/riverine lands on the Development Site as well as a surrounding buffer of approximately 32.58 acres, including the use of a deed restriction and/or conservation easement (see **MM BIO-15** below). As part of the restoration effort, all non-native invasive species, such as tamarisk, arundo, and pampas grass, will be removed prior to any seeding or planting of native species.

- MM BIO-10** Prior to issuance of construction permits, a conservation easement will be applied to upland conservation areas adjacent to drainages. During construction and operation, light pollution into the conservation areas will be reduced by shielding light sources and aiming them only into active construction areas during construction, and focused on parking, and commercial areas during operation where lighting is needed. If unforeseen circumstances were to arise that required hazard reduction within an area considered environmentally sensitive or a part of the MSHCP Conservation Area, such as lands proposed for conservation on the Development Site, it would require approval from the appropriate agencies prior to any vegetation management activities. These could include, but are not limited to, the Western Riverside County Regional Conservation Authority (WRCRCA), California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), United States Fish and Wildlife Service (USFWS), and the United States Army Corps of Engineers (USACE).
- MM BIO-11** Upland conservation areas, adjacent to the existing drainages, within the Development Project will be avoided during construction and operation. Light sources during construction and operation will be angled and shielded to avoid light pollution into drainages and adjacent upland conservation areas.
- MM BIO-12** During construction, upland conservation areas will be fenced to prevent personnel and construction equipment from entering the conservation areas. Standard construction fencing will be sufficient to prevent personnel and equipment from entering the conservation areas.
- MM BIO-13** Mitigation for impacts to Riparian/Riverine areas covered under the MSHCP would be through several options: (1) contribution of land at 3:1 ratio containing similar habitat and jurisdictional areas to the Reserve; or (2) land dedicated at 3:1



mitigation ratio in fee-title toward conservation and managed by third-party conservation entity; or (3) fee payment made to mitigation bank of in-lieu fee program at 3:1 mitigation ratio; or (4) through creation and enhancement of riparian habitat at 3:1 mitigation ratio within the project area using the disturbed and non-native vegetation areas within Highland Wash, Smith Creek, and Pershing Creek. As part of the restoration effort, a Habitat Restoration and Monitoring Plan (HRMP) will be prepared and is included as MM BIO-14.

MM BIO-14 A Habitat Restoration and Monitoring Plan (HRMP) will be reviewed and approved by the City prior to commencement of construction activities on the Development Site. The HRMP will include species information, success criteria and mapped location(s) for the proposed on-site riparian/riverine mitigation, and a habitat viability analysis for the proposed new areas of riparian vegetation. The location of the proposed riparian restoration areas will be provided to the City for review. The plan will be prepared by a qualified restoration consultant and will be utilizing local native plant species in the planting pallet. This plan typically includes a 5-year monitoring element to ensure that restoration efforts are successful.

MM BIO-15 A third-party conservation organization will be chosen to monitor and maintain all portions of the Development Site within the designated conservation area, as outlined in a conservation easement covering the drainage features and adjacent upland buffer zones adjacent to drainages. The conservation easement should be in place prior to or immediately following regulatory agency permits being issued. Additionally, any additional off-site land acquired for project mitigation, if any, will be incorporated into the managed land, with approval from relevant agencies such as the Western Riverside County Regional Conservation Authority, California Department of Fish and Wildlife, Regional Water Quality Control Board, and United States Fish and Wildlife Service. Although a designated organization has not been chosen, one will be selected and approved by the City before the project's implementation.

Level of Significance After Mitigation. The above MMs would reduce potential impacts to candidate, sensitive, or special-status species present on the Development Site through habitat preservation or enhancement, active or passive relocation, and compliance with the DBESP regulations and MSHCP BMPs. Along with these mitigation measures, impacts to burrowing owl and LAPM would be further reduced through the permanent conservation of riparian/riverine lands on site (7.92 of 8.99 acres) as well as a surrounding upland area buffer of approximately 32.58 acres. To mitigate for the permanent impacts to 1.07 acres of riparian/riverine areas on the Development Site, 3.21 acres of on-site riparian habitat would be enhanced or restored (a 3:1 ratio). See threshold 4.4.2 below for further discussion.

While upland habitat throughout the Development Site will be permanently and irreversibly impacted by the Development Project, as discussed above, no candidate or sensitive species occur in these areas. Burrowing owl and Los Angeles pocket mouse are both designated as species of concern by CDFW and are known to occur in these areas.



No federally or State listed endangered or threatened species or special-status plant or amphibian species occur within the Development Site. No special-status fairy shrimp species occur within the Development Site, though the common versatile fairy shrimp does occur in seasonal pooling locations throughout the Development Site. As a result, no impacts with respect to these categories of species would occur. However, as discussed below, both the burrowing owl and LAPM are California Species of Concern.

Burrowing owl have been identified on site and would be directly and indirectly impacted by Development Project construction. However, with implementation of **Mitigation Measures MM BIO-1 through MM BIO-8** noted in **Section 4.4.6.1** above, impacts to burrowing owl at the Development Site would be *less than significant*.

Like the burrowing owl, Los Angeles pocket mouse occur on site and would be directly and indirectly impacted by the Development Project. However, with implementation of **Mitigation Measures MM BIO-1 through MM BIO-6** and **Mitigation Measures MM BIO-9 through MM BIO-15** noted in **Section 4.4.6.1** above, impacts to Los Angeles pocket mouse at the Development Site would be *less than significant*. No other State or federally listed candidate, sensitive, or special-status species occur on or in the vicinity of the Development Site.

With implementation of the above listed mitigation measures, the Development Site impacts on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or the USFWS would be *less than significant*.

4.4.6.2 *Damage Riparian or Other Sensitive Natural Community Resources*

Threshold 4.4.2: Would the Development Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service.

According to Section 6.12 of the MSHCP, Riparian/Riverine Areas are lands that contain habitat dominated by trees, shrubs, persistent emergents, or emergent mosses and lichens, which occur close to or which depend upon soil moisture from a nearby freshwater source; or areas with freshwater flow during all or a portion of the year.

Three main washes were identified within the Development Site that contained both bed and bank and an OHWM: Highland Wash, Pershing Creek, and Smith Creek. An unnamed ponded area in the southeast portion of the Development Site adjacent to Bobcat Road was also identified as containing jurisdictional waters. The soils within the washes are coarse sands with no signs of redox or any other wetland soil indicator. Due to the limited hydric vegetation and total lack of hydric soils observed within the washes, the drainages are considered ephemeral and are only expected to have flowing water during and immediately after storm events. Highland Wash and Pershing Creek are tributaries to Smith Creek. The Highland Creek confluence is on the Development Site and the Pershing Creek confluence is off site. Flow from the Development Site drainages enters the MSHCP Conservation Area approximately 4.5 miles downstream in the San Gorgonio Pass Special Linkage Area. There were



additional potential washes or erosional features observed on aerial photography, but upon further investigation in the field those features were found to be lacking bed and bank or OHWM.²³

Under current Development Project design, approximately 7.92 of the approximately 8.99 acres of riparian habitat present on site would be preserved, as well as a surrounding buffer of approximately 32.58 acres. Approximately 1.07 acres of riparian habitat would be permanently impacted. **Table 4.4.C: Development Site Riverine/Riparian Acreage** below indicates the riparian acreages present on the Development Site and in areas not a part of the Sunset Crossroads Development Project.

Table 4.4.C: Development Site Riverine/Riparian Acreage

Jurisdictional Area	Riverine (ac)	Riparian (ac)
Highland Wash	0.99	0.08
Pershing Creek	5.75	0.35
Smith Creek	2.18	0.19
Unnamed #1	0.05	0.03
Development Site Total	8.34	0.65
NAP Total	0.63	0.00

Source: Wood Environment & Infrastructure Solutions, Inc. 2023. Western Riverside County Multiple Species Habitat Conservation Plan Consistency Analysis, Sunset Crossroads Project. June.

Note: Total 9.62 ac of riparian/riverine overall (8.34 + 0.65 + 0.63). Total of 8.99 ac of riparian/riverine on Development Site (8.34 + 0.65).

ac = acres

NAP = Not a Part of the Sunset Crossroads Development Project.

There are 8.99 acres of riparian/riverine on the Development Site, of which 1.07 acres will be impacted.

Impacts to the drainages will be limited to road crossings. Implementation of **Mitigation Measures MM BIO-1 through MM BIO-6** and **Mitigation Measures MM BIO-9 through MM BIO-15**, as well as compliance with applicable State and local policies and regulations as described in **Section 4.4.4** above, would reduce impacts to *less than significant*. **Table 4.4.D: Development Site Riverine/Riparian Impacts and Conservation** identifies the Development Site riparian acreage impacts and conservation. **Table 4.4.D** includes the approximately 8.99 acres of riparian habitat noted above, as well as the approximately 0.63 acre identified in the related SLB Extension project noted as Not a Part (NAP) of the Sunset Crossroads Development Project.

²³ Wood Environment & Infrastructure Solutions, Inc. 2023. Western Riverside County Multiple Species Habitat Conservation Plan Determination of Biologically Equivalent or Superior Preservation Report, Sunset Crossroads Project. June.



Table 4.4.D: Development Site Riverine/Riparian Impacts and Conservation

Jurisdictional Area	Circulation (ac)	General Commercial (ac)	Industrial (ac)	NAP (ac)		Open Space (ac)			Totals (ac)
				SLB Extension	Wells	Parks	Resource	Resource – Buffer	
Highland Wash	0.09	–	–	0.08	–	–	0.9	–	1.07
Pershing Creek	0.62	0.17	0.0003	0.44	–	–	4.87	–	6.1003
Smith Creek	0.11	–	–	0.11	–	–	2.15	–	2.37
Unnamed #1	0.033	–	0.053	–	–	–	–	–	0.086
Totals	0.85	0.17	0.0533	0.63	–	–	7.92	–	9.6263

Source: Wood Environment & Infrastructure Solutions, Inc. 2023. Western Riverside County Multiple Species Habitat Conservation Plan Consistency Analysis, Sunset Crossroads Project. June.

¹ Total Development Site acreage excluding NAP areas = 533.8 ac. (NAP areas are included for informational purposes only.)

NAP = Not a Part

SLB = Sun Lakes Boulevard

As noted in **Table 4.4.D**, approximately 7.92 of the approximately 9.63 acres of riparian habitat, including the drainages and upland habitat, would be preserved as an open space resource. Riparian/riverine resources and a buffer around them (Open Space – Resource) which will be conserved to attenuate impacts are shown on Figure 2 of the MSHCP Consistency Analysis (**Appendix D-7** of this Draft EIR). Detention basins shown on Figure 2 will reduce runoff impacts to the Development Site riparian/riverine resources. Mitigation measures will be incorporated to ensure the long-term conservation of the riparian/riverine resources which are being avoided (**Mitigation Measures MM BIO-10 through MM BIO-15**), and their associated functions and values, including the use of a deed restriction or conservation easement (**MM BIO-10**).

Level of Significance Prior to Mitigation: Potentially Significant Impact.

Regulatory Compliance Measures and Mitigation Measures: The Development Project would comply with all applicable local policies and regulations from the CDFW and USFWS. The Development Project as designed would preserve all habitat within the existing washes that cross the Development Site. As discussed previously, these wash habitats for candidate, sensitive, and special-status species would be preserved per **Mitigation Measures MM BIO-10 through MM BIO-15**. Additionally, implementation of **Mitigation Measures MM BIO-1 through MM BIO-6** would reduce impacts to *less than significant*.

Level of Significance After Mitigation: Less Than Significant Impact.

4.4.6.3 Effects on Wetlands

Threshold 4.4.3: Would the Development Project have a substantial adverse effect on federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No wetland habitat occurs within the Development Site or within the BSA. However, multiple seasonal pooling sites occur within the Development Site. Many of these seasonal pooling sites would be permanently affected by Development Project construction. These seasonal pooling features are not federally protected wetlands, but they do provide potential habitat for State and federally listed species of fairy shrimp. However, during fairy shrimp surveys conducted on site and within the BSA,



no State or federally listed fairy shrimp species were observed. None of the on-site seasonal pooling features that are habitat for fairy shrimp were determined to be a vernal pool ecosystem. These features were barren or overrun by non-native plant species and occurred within compacted soil in road ruts and other human alterations. As a result, no impacts to vernal pools would occur.

Level of Significance Prior to Mitigation: Less Than Significant Impact.

Regulatory Compliance Measures and Mitigation Measures: Despite the determination of no significant impact noted above, **Mitigation Measures MM BIO-1 through MM BIO-6** would ensure compliance with BMPs and MSHCP guidelines to protect the three noted drainage features during construction.

Level of Significance After Mitigation: Less Than Significant Impact.

4.4.6.4 *Wildlife Movement or Nursery Site Impacts*

Threshold 4.4.4: Would the Development Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The Development Site is not within an area identified by the MSHCP as an important migratory or native resident wildlife corridor area. The MSHCP Consistency Analysis determined that the Development Site and adjacent vegetation is unsuitable habitat for State and federally listed riparian bird species such as the least Bell's vireo, southwestern willow flycatcher, or western yellow-billed cuckoo. Stands are too small and lack the necessary structure and density to support these species. However, with current design of the Development Project, potential wildlife corridors in the drainage areas, where LAPM are present, would be substantially conserved. No resident or migratory fish species occur at the Development Site or within the wider BSA. The Development Site contains potential nesting habitat for several native and migratory bird species, though none are candidate species or species of concern. All native, resident, and migratory bird species are federally protected under the MBTA. Burrowing owl occur on site and are a State listed special-status species. The entire Development Site contains suitable habitat for burrowing owl, but no substantial resident population has been observed on site and there is no evidence of the site being used as a migration corridor for this species. While the location of the current active burrow is planned for construction, other burrow habitat exists on site and would be preserved as open space under current Development Project design. While habitat exists for migratory bird species to nest on site, active nests for these species, including grasshopper sparrow, are unlikely to occur on site because they migrate through this area but do not nest on site or within the BSA.

Construction and operation of the Development Project would not significantly impact wildlife movement or known nursery sites within or in the vicinity of the Development Site. The proposed locations of the facilities on the Development Site do not contain any habitat for resident or migratory fish, nor are they within an MSHCP-identified wildlife corridor area. Potential habitat for nesting birds does exist in the area. However, the planned conservation areas on the Development Site would conserve potential nesting habitat on site, meeting the guidelines of the MSHCP and compliance with all mitigation measures listed above.



Level of Significance Prior to Mitigation: Less Than Significant Impact.

Regulatory Compliance Measures and Mitigation Measures: Because the impacts would be *less than significant*, no mitigation is required. It is important to note, though, that any active bird nest identified on site is protected under the MBTA, regardless of species status. If an active nest is identified during construction, the nest would not be disturbed until chicks fledge or the nest is no longer active.

Level of Significance After Mitigation: Less Than Significant Impact.

4.4.6.5 *Local Policies and Ordinances Protecting Biological Resources*

Threshold 4.4.5: Would the Development Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The Development Site lies within the MSHCP boundaries. The City's General Plan policies and programs include compliance with regional conservation plans, including the MSHCP.

City of Banning General Plan. The City of Banning's General Plan is the guiding document for development within the City. The General Plan designates open space land uses within the City. In order to maintain and enhance the City's available open space, the goals, policies, and programs identified in the City's General Plan Biological Resources Element and included in **Section 4.4.4.4** above are relevant to resource conservation for the proposed Development Project. As discussed previously in **Sections 4.4.3** and **4.4.6.1**, the Development Project as designed, with mitigation applied, would comply with all applicable policies and ordinances protecting biological resources. While there are no policies in the City of Banning related to biological resources or tree ordinances, the Development Project is required to comply with City requirements regarding lighting and tree ordinances. Section 17.12.170 of the City of Banning zoning code requires that commercial or industrial lighting be no brighter than the minimum safety requirements, by no more than 18–25 feet high, not have a visible light source, and be shielded to contain lighted areas within the site boundaries. Section 17.24.100 of the City of Banning zoning code requires all exterior lighting to be, "shielded or recessed so that light is contained within the boundaries of the parcel on which the lighting is located. All lighting shall be directed downward and away from adjoining properties and public rights-of-way." As this applies to the Development Project, all exterior lighting will be shielded or recessed so as not to spill into the existing drainages that, as previously discussed, provides suitable habitat for nocturnal species including the Los Angeles pocket mouse. Compliance with these City codes would prevent lighting spillover into habitat areas on site and adjacent to the Development Site. As a result, no impacts would occur.

Planning Area 12 contains 12.3 acres along the western portion of the Development Site intended to provide a buffer between the existing Sun Lakes Community to the west of the Development Site and the industrial development. This area may include soft trails and certain public facilities, but Planning Area 12 is not intended for mitigation purposes, and its development would not result in a conflict with any local policies or ordinances protecting biological resources.



Level of Significance Prior to Mitigation: Potentially Significant Impact.

Regulatory Compliance Measures and Mitigation Measures: Mitigation Measures MM BIO-1 through MM BIO-6 would ensure compliance with BMPs applicable policies and MSHCP guidelines to protect the three noted drainage features during construction and operation.

Level of Significance After Mitigation: Less Than Significant Impact.

4.4.6.6 Provisions of Adopted Plans

Threshold 4.4.6: Would the Development Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The Development Site lies within the boundaries of the Western Riverside County Multi-Species Habitat Conservation Plan and within MSHCP designated survey areas for burrowing owl and LAPM. However, it is not within a Criteria Area. As discussed in **Section 4.4.3** above, both burrowing owl and LAPM do occur at the Development Site and immediately adjacent areas. The Development Site is not within an MSHCP designated amphibian survey area or CASSA for plants.

As described above in **Section 4.4.6.1**, burrowing owl and burrowing owl habitat occur on site and would be permanently affected by the development of the site. The MSHCP states, “If the site contains, or is part of, an area supporting less than 35-acres of suitable habitat or the survey reveals that the site and the surrounding area supports fewer than 3 pairs of burrowing owls, then the on-site burrowing owls would be passively or actively relocated following accepted protocols.” Because the site contains only one active burrow with two individuals, this MSHCP guideline applies. If an active burrow is affected, and the individuals are actively or passively relocated, the RCTLMA EPD states, “In the event owls are observed on site, please contact the Environmental Programs Department (EPD) immediately to discuss potential mitigation measures such as passive or active relocation.” Per **MM BIO-6** the Development Project would comply with all MSHCP guidelines regarding burrowing owl as part of the Development Project’s regulatory compliance discussed in **Section 4.4.4** above.

LAPM, as discussed in **Section 4.4.3**, occur on site and within the adjacent study area. Surveys on site and in adjacent parcels within the BSA identified persistent populations of Los Angeles pocket mouse on site and throughout the BSA. The current design conserves most of the drainages and buffers of uplands around those drainages. These design features conserve at least 90 percent of the known habitat for Los Angeles pocket mouse, which meets MSHCP goals for protecting Los Angeles pocket mouse.

Planning Area 12 contains 12.3 acres along the western portion of the Development Site intended to provide a buffer between the existing Sun Lakes Community to the west of the Development Site and the industrial development. This area may include soft trails and certain public facilities, but Planning Area 12 is not intended for mitigation purposes, and its development would not result in a conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan.



Level of Significance Prior to Mitigation: Potentially Significant Impact.

Regulatory Compliance Measures and Mitigation Measures: The Development Project complies with all applicable guidelines from the MSHCP. However, the guidance from RCTLMA EPD states, “In the event owls are observed on site, please contact the Environmental Programs Department (EPD) immediately to discuss potential mitigation measures such as passive or active relocation.”

Mitigation Measure MM BIO-6 addresses the RCTLMA EPD guidance and further ensures impacts from the Development Project on burrowing owls are *less than significant*.

While current design of the Development Project conserves at least 90 percent of known Los Angeles pocket mouse habitat, satisfying MSHCP goals for Los Angeles pocket mouse protection, **Mitigation Measures MM BIO-1 through MM BIO-6 and MM BIO-9 through MM BIO-15** would ensure that the Development Project complies with all applicable MSHCP guidelines, to ensure MSHCP coverage for the Los Angeles pocket mouse.

Level of Significance After Mitigation: Less Than Significant Impact.