



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

Mar 21 2022

STATE CLEARINGHOUSE

March 21, 2022
Sent via email

Travis Clark, Associate Planner
City of Victorville Development Department
14343 Civic Drive
Victorville CA 92392

Subject: Initial Study and Mitigated Negative Declaration
Tentative Tract Map (TT) 20341
State Clearing House No. 2022020567

Dear Mr. Clark:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (ISMND) from the City of Victorville (City) for the Tentative Tract Map (TT) 20341 Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law

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of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

ASSEMBLY BILL (AB) 819

Assembly Bill (AB) 819 was signed into law by the Governor this year and became effective January 1, 2022. AB 819 requires lead agencies to submit certain environmental documents and notices electronically to the State Clearinghouse (SCH) at Office of Planning and Research (OPR). Thus, as of January 1, 2022, lead agencies must take the following actions to comply with CEQA:

- File on CEQAnet – Draft environmental impact reports (DEIR), proposed negative declarations (ND), proposed mitigated negative declarations (MND) must be filed electronically on CEQAnet (<https://ceqanet.opr.ca.gov/>) – as opposed to submitting hard copies.
- Post on Agency website – Draft, proposed, and final environmental documents – including DEIRs, EIRs, NDs, MNDs – as well as any notice of preparation (NOP), notice of determination (NOD), notice of completion, or notice of scoping meetings must be posted on the lead agency’s website if it has one. Also, notices of availability (NOAs) and hearings related to the DEIR or ND are required to be posted on the lead agency’s website, in addition to prior methods of giving notice.
- File and Post with County – NODs must be filed electronically with the county clerk if electronic filings are offered by the county. There is an option to post NODs either in the county clerk’s office or on the county clerk’s website for a period of 30 days. Additionally, NOPs and NOAs will need to be posted on the county clerk’s website and physically, by hard copy, in the county clerk’s office.
- Option to email NOPs – If an EIR is required, any NOP may be emailed, rather than mailed, to each entity requiring personal notice – the responsible agency, any public agency with jurisdiction over natural resources affected by the project, and OPR.
- State Agency Filings – State lead agencies are required to file NODs and NOEs electronically on CEQAnet and no longer need to submit hard copies. The filed notice must be available for public inspection on the OPR website for not less than 12 months.
- Public Agency Notice of Completion – Public agencies must file notices of completion on CEQAnet, rather than mailing a paper copy.

PROJECT DESCRIPTION SUMMARY

The Project site is in the City of Victorville, San Bernadino County, California, Latitude 34°27'5.78" N and Longitude 117°24'21.98" W. The Project site is off Solano Road in between Mesa Street and Eucalyptus Street. The Project proposes the development of 298-unit single-family residences distributed over 76.65 acres on Assessor’s Parcel

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Numbers [APNs] 3136-241-02, -03, -04, and -05.

Timeframe: Project construction will occur over three phases lasting approximately five years. Construction is anticipated to begin in June 2022 and end in June 2027.

COMMENTS AND RECOMMENDATIONS

The ISMND recognizes the potential for special-status species, including western Joshua tree (*Yucca brevifolia*), burrowing owl (*Athene cunicularia*), Mohave ground squirrel (*Xerospermophilus mohavensis*), and desert tortoise (*Gopherus agassizii*) to occur within the Project area. Although the ISMND refers to a habitat assessment performed by L & L Environmental, Inc. on November 2020, referenced as Appendix B, the ISMND does not include Appendix B as an attachment. Without details of the surveys and survey reports undertaken to assess biological resources, CDFW is concerned that the analysis completed may have been inadequate to form a complete inventory of special-status species within and surrounding the Project area and to identify the level of impacts on those species as less than significant with the implementation of the proposed mitigation measures. Nonetheless, CDFW appreciates that the ISMND includes mitigation measures requiring protocol surveys for Mohave ground squirrel, California horned lark (*Eremophila alpestris actia*), Loggerhead shrike (*Lanius ludovicianus*), burrowing owl, and desert tortoise prior to Project activities.

CDFW is concerned regarding the adequacy of the biological (BIO) resources mitigation measures (MM) proposed by the City and the lack of mitigation measures to mitigate potential impacts to declining natural vegetation communities and Fish and Game Code section 1602 resources. Thus, CDFW offers the comments and recommendations presented below and in Attachment 1 (Mitigation Monitoring and Reporting Program) to assist the City in adequately mitigating the Project's potentially significant impacts on biological resources. CDFW requests that the City revise and/or adopt the following mitigation measures prior to finalizing the ISMND:

1. Mohave Ground Squirrel. MM BIO-1 Provides mitigation measures for impacts to Mohave ground squirrel. CDFW recommends MM BIO-1 be revised to include further details if Mohave ground squirrel were to be found during the pre-construction Mohave ground squirrel survey (edits are in ~~strikethrough~~ and **bold**):

Prior to ground disturbance, a qualified biologist shall conduct a protocol survey for Mohave ground squirrel following the *Mohave Ground Squirrel Survey Guidelines* (CDFW, 2010) **or most recent version** to determine the presence/absence for the Mohave ground squirrel. Studies that include trapping for the Mohave ground squirrel shall be conducted by a **qualified** biologist that holds a current ~~authorized by a~~ Memorandum of Understanding (MOU) issued by the Wildlife Branch of the California Department of Fish and Wildlife, or by another permit as determined by the California Department of Fish and Wildlife. Visual surveys to determine Mohave ground squirrel activity and habitat quality shall be undertaken during the period of 15 March through 15

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April. Following completion of the presence/absence surveys, the **qualified** biologist shall prepare **and provide CDFW** a letter report with supporting Geographic Information Systems (GIS) figures to document the methods and results of the presence/absence survey, as well as identify any additional surveys, avoidance measures, and/or permitting requirements that may be required prior to ground disturbing activities.

Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent should obtain an Incidental Take Permit (ITP) for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey. If a Mohave ground squirrel is observed during Project activities, and the Project Proponent does not have an ITP, all work shall immediately stop, and the observation shall be immediately reported to CDFW.

2. Nesting Birds. MM BIO-3 Provides mitigation measures for impacts to nesting birds. CDFW appreciates that MM BIO-3 considers that birds, such as hummingbirds may nest year-round. CDFW recommends revisions to MM BIO-3 to define the bird breeding season and nest avoidance buffer as follows (edits are in ~~strikethrough~~ and **bold**):

Proposed project activities shall avoid the bird breeding season (typically January 1 through July ~~September 15~~ for raptors and February 1 through ~~August September 1~~ for other avian species), if feasible. If breeding season avoidance is not feasible, a qualified biologist shall conduct a pre-construction nesting bird survey for avian species to determine the presence/absence, location, and status of any active nests on or adjacent to the area proposed project site. The extent of the survey buffer area surrounding the nest shall be **300 feet for raptors and 100 feet for songbirds, a smaller buffer may be established by the qualified biologist familiar with the nesting phenology of the nesting species** to ensure that direct and indirect effects to nesting birds are avoided. ~~To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code, N~~esting bird surveys shall be performed twice per week during the three weeks prior to the scheduled project activities. The second survey of the third week shall occur no more than three days before the start of **Project construction activities, including, but not limited to clearing, grubbing, and/or grading.**

In the event that active nests are discovered, a suitable buffer (~~distance to be determined by the biologist or overriding agencies as defined above~~) shall be established around such active nests, and no construction within the buffer **shall be** allowed, until the **qualified** biologist has determined that the nest(s) is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). The **qualified** biologist shall monitor the nest, adjust the buffer area as needed, and shall have the authority to stop construction activities to prevent take.

~~Nesting bird surveys are typically not required for construction activities occurring September through December; however, H~~hummingbirds (Family Trochilidae), for

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~~example,~~ are known to nest year-round; therefore, a pre-construction nesting bird survey for activities outside of the breeding season (**as defined above**) shall be conducted within 24 hours of **Project initiation** ~~construction~~ to ensure full compliance with the regulations.

3. Burrowing Owl. MM BIO-5 Provides mitigation measures for impacts to burrowing owl. CDFW appreciates that MM BIO-5 considers a conservation strategy in cooperation with CDFW to mitigate for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife, 2012). CDFW offers the following revisions to MM BIO-5 (edits are in ~~strikethrough~~ and **bold**):

Prior to ground disturbing activities, a qualified biologist shall conduct a burrowing owl protocol survey to determine whether burrowing owl have established, expanded, and/or migrated onsite and ensure impacts to any occupied burrows do not occur. A complete burrowing owl survey in accordance with the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife, 2012), consists of four site visits. Surveys shall be conducted during the burrowing owl nesting season, which can begin as early as February 1 and continues through August 31. Further, two pre-construction clearance surveys shall be conducted 14 to 30 days and 24 hours prior to any vegetation removal or ground disturbing activities. If no burrowing owls or occupied burrows are detected **CDFW shall be notified**, and construction may begin.

If an occupied burrow is found ~~within the development footprint~~ during pre-construction clearance surveys, a burrowing owl exclusion plan shall be prepared and submitted to California Department of Fish and Wildlife for approval prior to initiating project activities that includes proposed mitigation for direct and permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced as consistent with the Staff Report on Burrowing Owl Mitigation. If an occupied burrow is found within adjacent habitat that may be indirectly impacted by project activities, the individual shall be buffered following the distances recommended in the Staff Report on Burrowing Owl Mitigation. The **qualified** biologist shall monitor the burrow, adjust the buffer area as needed, and shall have the authority to stop construction activities to prevent take.

4. Desert Tortoise. MM BIO-6 Provides mitigation measures for impacts to desert tortoise. CDFW is concerned that as written, MM BIO-6 is conditioned to only require surveys in suitable desert tortoise habitat. Thus, CDFW recommends the below revisions to MM BIO-6 to ensure thorough surveying of desert tortoise (edits are in ~~strikethrough~~ and **bold**):

Prior to **initiation of Project activities** ~~construction~~, a qualified biologist shall conduct a protocol survey to determine the presence/absence of desert tortoise **within the Project areas and 50-foot buffer** of the ~~Priority Development Area with suitable habitat~~. In accordance with survey guidelines established by the U.S. Fish and Wildlife Service **in**

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2019, the qualified biologist shall survey **the entire Project** areas of ~~suitable habitat located on and within 500 feet of the proposed development~~ during the tortoise's most active periods (April through May or September through October) when air temperatures are below 95°F. Survey transects shall be oriented north to south and spaced at approximately 10-meter (33 feet) intervals throughout all **Project** areas ~~containing suitable habitat~~ to provide 100 percent visual coverage and increase the likelihood of detecting desert tortoise and/or sign. Following completion of the presence/absence survey, the **qualified** biologist shall prepare **and provide CDFW** a letter report with supporting Geographic Information Systems (GIS) figures to document the methods and results of the presence/absence survey, as well as identify any additional surveys, avoidance measures, and/or permitting requirements that may be required prior to implementation of a proposed project.

If the survey confirms absence, a CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to desert tortoise. If complete avoidance cannot be achieved, CDFW recommends Project proponent not undertake Project activities and Project activities be postponed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.

5. Western Joshua Tree (WJT). CDFW is concerned that the ISMND lacks an appropriate impact analysis for WJT. The ISMND considers impacts to six WJT from implementation of a 40-foot buffer associated with Emergency regulation 14 CCR Section 749.10. Please note that the impact assessment for each individual WJT should include a 186-foot radius in consideration of the seedbank. The 186-foot buffer is based on studies by Vander Wall et al. (2006), which demonstrate that the mean maximum dispersal of WJT seed through rodent activity is 186 feet. Thus, a 186-foot buffer around each WJT on the Project allows a full assessment of adequate size to consider all potential take. In addition, to ensure full avoidance of impacts to WJT, CDFW recommends a 300-foot buffer from Project activities.

Furthermore, the Solar Regulations do not extend coverage to the Project, rather they are limited to those projects identified in the Solar Regulations and subject to specific criterion for eligibility. Title 14 Cal. Code Regs. § 749.10 was adopted by the Fish and Game Commission for the take of WJT during the candidacy period for 15 specific solar energy projects for which CDFW evaluated the functional quality of the habitat considering size and reproductive class of trees. The Solar Regulations did not establish a 40-foot buffer to operate as a cap for projects occurring outside this emergency regulation. Title 14 of Cal. Code Regs. § 749.10.1 (a)(7)(C) specifies that "Nothing in this section is intended to or shall be construed to limit the terms and conditions, including those relating to mitigation ratios and compensatory mitigation, the department includes in incidental take permits for WJT."

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CDFW recommends that prior to finalizing the ISMND, the City include a proper impact analysis assessing potential impacts within an 186-foot buffer zone and implementing a 300-foot buffer to avoid impacts to WJT as well as a mitigation strategy for impacts to WJT individuals, WJT seedbank, and indirect impacts to WJT from destruction or modification of habitat at the Project location. Indirect impacts include destruction of WJT's obligate pollinating moth (yucca moth; *Tegeticula synthetica*), while it is dormant in the soil or while it is in its flight phase, which would impact the ability of WJT to sexually recruit new individuals (Sweet et al. 2019). Destruction or modification of habitat at the Project location could also disrupt the seed dispersal behavior of rodents, which is the primary way that WJT seeds are buried at a soil depth suitable for successful germination (Waitman et al. 2012). Destruction or modification of habitat at the Project location could also eliminate nurse plants that are critical for WJT seedling survival (Brittingham and Walker 2000).

CDFW requests the ISMND adequately identify and disclose the Project's impacts (i.e., direct, indirect, and cumulative) to WJT as noted above and propose mitigation to offset those impacts and demonstrate that impacts are less than significant and, for the purposes of CESA permitting, fully mitigated. Further, CDFW recommends MM BIO-7 below considering that at least six (6) WJT are likely to be taken by the Project:

BIO-7

CDFW recommends that a California Endangered Species Act (CESA) Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of western Joshua tree, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking of CESA-listed species. CDFW recommends permanent protection through a conservation easement, development of a long-term management plan, and funding sufficient to implement management plan tasks in perpetuity which should be completed before starting Project ground-disturbing activities or by providing financial security. In order to execute an ITP, CDFW requires documentation of CEQA compliance. CDFW requires the CEQA document have a state clearing house number, show proof of filing fees, and proof the document has been circulated.

6. Lake and Streambed Alteration (LSA). Based on review of aerial photography from the California State Water Resources Control Board, an ephemeral drainage feature encroaches onto APN 3136-241-02 and runs closely adjacent to APN 3136-241-04. The ISMND states that a Jurisdictional Delineation (JD) was conducted in July 2021; however, the JD was not appended to the ISMND. Nonetheless, the ISMND confirms

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the presence of a streambed subject to Fish and Game Code section 1600 stating, “this ephemeral drainage is present along the western boundary where approximately 5,846 square feet (0.13 acre) falls within the boundary of the site. The project plans have been redesigned to avoid all impacts to the ephemeral drainage; refer to Exhibit 2-4. As such, no impacts to riparian habitat or other sensitive natural communities would occur, and permitting would not be required in this regard.” CDFW is not clear based on the design plans provided on Exhibit 2-4 whether the stream will be avoided by the Project and is therefore concerned with potential impacts to Fish and Game Code section 1602. Thus, CDFW recommends the City adopt MM BIO-8 below to either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, *or* a CDFW-executed Lake and Streambed Alteration Agreement:

BIO-8

Prior to construction and issuance of any grading permit, the Project applicant should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, *or* the Project applicant should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

7. Sensitive Plants. The ISMND alludes to plant surveys being conducted in 2017 and 2020, but CDFW is not purview to survey results as they were not provided with the ISMND as Appendix B. The ISMND also recognizes that the 2020 survey was not floristic in nature, but quantities 18 plants species as being present on-site. Because CDFW is not aware of the species identified during the plant surveys and surveys were not floristic in nature, CDFW is concerned that the assessment may have been inadequate to quantify impacts to sensitive plants. Thus, CDFW recommends MM BIO-9 below be added to the ISMND to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts:

BIO-9

Prior to Project implementation, and during the appropriate season, the City shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting)

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and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.

If any rare plants or sensitive vegetation communities are identified, the City shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

If the Project has the potential to impact a State-listed species, the City should apply for a California Endangered Species Act Incidental Take Permit with the California Department of Fish and Wildlife.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW requests that the City include in the final ISMND the suggested mitigation measures (Attachment 1) offered by CDFW to reduce Project impacts.

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CDFW appreciates the opportunity to comment on the ISMND for the Tentative Tract Map (TTM) 20341 Project (SCH No. 2022020567) and hopes our comments assist the City of Victorville in identifying and mitigating Project impacts on biological resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Corina Jimenez, Environmental Scientist at Corina.Jimenez@wildlife.ca.gov.

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:

84FBB8273E4C480...
Alisa Ellsworth
Environmental Program Manager

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

REFERENCES

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Mitigation Measure	Implementation Schedule	Responsible Party
<p>BIO-1</p> <p>Prior to ground disturbance, a qualified biologist shall conduct a protocol survey for Mohave ground squirrel following the <i>Mohave Ground Squirrel Survey Guidelines</i> (CDFW, 2010) or most recent version to determine the presence/absence for the Mohave ground squirrel. Studies that include trapping for the Mohave ground squirrel shall be conducted by a qualified biologist that holds a current Memorandum of Understanding (MOU) issued by the Wildlife Branch of the California Department of Fish and Wildlife, or by another permit as determined by the California Department of Fish and Wildlife. Visual surveys to determine Mohave ground squirrel activity and habitat quality shall be undertaken during the period of 15 March through 15 April. Following completion of the presence/absence surveys, the qualified biologist shall prepare and provide CDFW a letter report with supporting Geographic Information Systems (GIS) figures to document the methods and results of the presence/absence survey, as well as identify any additional surveys, avoidance measures,</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>and/or permitting requirements that may be required prior to ground disturbing activities.</p> <p>Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent should obtain an Incidental Take Permit (ITP) for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey. If a Mohave ground squirrel is observed during Project activities, and the Project Proponent does not have an ITP, all work shall immediately stop, and the observation shall be immediately reported to CDFW.</p>		
<p>BIO-2</p> <p>Prior to construction, a City-approved qualified biologist shall conduct a Protocol Survey to determine the presence/absence of California horned lark for review and approval by the Development Department. If no California horned lark are observed during the field survey and the regulatory agencies agree with those findings, then no further mitigation would be required. If California horned lark or their habitat is documented on the project site, the project applicant shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>BIO-3</p> <p>Proposed project activities shall avoid the bird breeding season (typically January 1 through September 15 for raptors and February 1 through September 1 for other avian species), if feasible. If breeding season avoidance is not feasible, a qualified biologist shall conduct a pre-construction nesting bird survey for avian species to determine the presence/absence, location, and status of any active nests on or adjacent to the area proposed project site. The extent of the survey buffer area surrounding the nest shall be 300 feet for raptors and 100 feet for songbirds, a smaller buffer may be established by the</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>qualified biologist familiar with the nesting phenology of the nesting species to ensure that direct and indirect effects to nesting birds are avoided. Nesting bird surveys shall be performed twice per week during the three weeks prior to the scheduled project activities. The second survey of the third week shall occur no more than three days before the start of Project activities, including, but not limited to clearing, grubbing, and/or grading.</p> <p>In the event that active nests are discovered, a suitable buffer (as defined above) shall be established around such active nests, and no construction within the buffer shall be allowed, until the qualified biologist has determined that the nest(s) is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). The qualified biologist shall monitor the nest, adjust the buffer area as needed, and shall have the authority to stop construction activities to prevent take.</p> <p>Hummingbirds (Family Trochilidae) are known to nest year-round; therefore, a pre-construction nesting bird survey for activities outside of the breeding season (as defined above) shall be conducted within 24 hours of Project initiation to ensure full compliance with the regulations.</p>		
<p>BIO-4</p> <p>Prior to construction, a City-approved qualified biologist shall conduct a Protocol Survey to determine the presence/absence of loggerhead shrike for review and approval by the Development Department. If no loggerhead shrike are observed during the field survey and the regulatory agencies agree with those findings, then no further mitigation would be required. If loggerhead shrike or their habitat is documented on the project site, the project applicant shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>BIO-5</p> <p>Prior to ground disturbing activities, a qualified biologist shall conduct a burrowing owl protocol survey to determine whether burrowing owl have established, expanded, and/or migrated onsite and ensure impacts to any occupied burrows do not occur. A complete burrowing owl survey in accordance with the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife, 2012), consists of four site visits. Surveys shall be conducted during the burrowing owl nesting season, which can begin as early as February 1 and continues through August 31. Further, two pre-construction clearance surveys shall be conducted 14 to 30 days and 24 hours prior to any vegetation removal or ground disturbing activities. If no burrowing owls or occupied burrows are detected CDFW shall be notified and construction may begin.</p> <p>If an occupied burrow is found during pre-construction clearance surveys, a burrowing owl exclusion plan shall be prepared and submitted to California Department of Fish and Wildlife for approval prior to initiating project activities that includes proposed mitigation for direct and permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced as consistent with the Staff Report on Burrowing Owl Mitigation. If an occupied burrow is found within adjacent habitat that may be indirectly impacted by project activities, the individual shall be buffered following the distances recommended in the Staff Report on Burrowing Owl Mitigation. The qualified biologist shall monitor the burrow, adjust the buffer area as needed, and shall have the authority to stop construction activities to prevent take.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>BIO-6</p> <p>Prior to initiation of Project activities, a qualified biologist shall conduct a protocol survey to determine the presence/absence of desert tortoise within the Project area and 50-foot buffer. In accordance with</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>survey guidelines established by the U.S. Fish and Wildlife Service in 2019, the qualified biologist shall survey the entire Project area during the tortoise’s most active periods (April through May or September through October) when air temperatures are below 95°F. Survey transects shall be oriented north to south and spaced at approximately 10-meter (33 feet) intervals throughout all Project areas to provide 100 percent visual coverage and increase the likelihood of detecting desert tortoise and/or sign. Following completion of the presence/absence survey, the qualified biologist shall prepare and provide CDFW a letter report with supporting Geographic Information Systems (GIS) figures to document the methods and results of the presence/absence survey, as well as identify any additional surveys, avoidance measures, and/or permitting requirements that may be required prior to implementation of a proposed project.</p> <p>If the survey confirms absence, a CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to desert tortoise. If complete avoidance cannot be achieved, CDFW recommends Project proponent not undertake Project activities and Project activities be postponed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.</p>		
<p>BIO-7</p> <p>CDFW recommends that a California Endangered Species Act (CESA) Incidental Take Permit (ITP) be obtained if the Project has the potential to result in “take” (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of western Joshua tree, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085).</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>Permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking of CESA-listed species. CDFW recommends permanent protection through a conservation easement, development of a long-term management plan, and funding sufficient to implement management plan tasks in perpetuity which should be completed before starting Project ground-disturbing activities or by providing financial security. In order to execute an ITP, CDFW requires documentation of CEQA compliance. CDFW requires the CEQA document have a state clearing house number, show proof of filing fees, and proof the document has been circulated.</p>		
<p>BIO-8</p> <p>Prior to construction and issuance of any grading permit, the Project applicant should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project applicant should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>BIO-9</p> <p>Prior to Project implementation, and during the appropriate season, the City shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.</p> <p>If any rare plants or sensitive vegetation communities are identified, the City shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.</p> <p>If the Project has the potential to impact a State-listed species, the City should apply for a California Endangered Species Act Incidental Take Permit with the California Department of Fish and Wildlife.</p>		
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