



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

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



May 19, 2022  
*Sent via email*

Alex Jauregui, Senior Planner  
City of Victorville Development Department  
14343 Civic Drive  
Victorville, California 92392



Subject: Initial Study and Mitigated Negative Declaration  
Tentative Parcel Map Case No. PLAN22-00001 (TPM 20491)  
State Clearinghouse No. 2022040494

Dear Mr. Jauregui,

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 Parcel Map Case No. PLAN22-00001 (TPM 20491) Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

## CDFW ROLE

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

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

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need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

### **ASSEMBLY BILL (AB) 819**

Assembly Bill (AB) 819 was signed into law by Governor Gavin Newsom on July 16, 2021, and became effective January 1, 2022. AB 819 requires lead agencies to submit certain environmental documents and notices electronically to the State Clearing House (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 Notice of Exemptions 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.

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## PROJECT DESCRIPTION SUMMARY

The Project site is in the City of Victorville, San Bernadino County, California; Latitude 34.47859 N and Longitude -117.33593 W. The Project site is located at the northeast corner of Cottonwood Street and Pahute Avenue. The Project proposes the subdivision of Assessor's Parcel Number (APN) 3093-141-02-0000, which totals 15 acres into three (3) parcels to accommodate future commercial development.

**Timeframe:** Unavailable

## COMMENTS AND RECOMMENDATIONS

The ISMND recognizes the potential for burrowing owl (*Athene cunicularia*), desert tortoise (*Gopherus agassizii*), Mohave ground squirrel (*Xerospermophilus mohavensis*) and nesting birds to occur within the Project area. The ISMND also recognizes the presence of a drainage channel and four (4) western Joshua tree (*Yucca brevifolia*) on the Project site, a Candidate for Threatened California Endangered Species Act (CESA)-listed species. CDFW offers the mitigation measures presented below and also found in Attachment 1 (Mitigation Monitoring and Reporting Program), along with comments and recommendations to assist the County in adequately mitigating the Project's potentially significant impacts on burrowing owl, desert tortoise, Mohave ground squirrel, western Joshua tree, Fish and Game Code section 1602 resources, and nesting birds.

### Burrowing Owl (*Athene cunicularia*)

CDFW appreciates that a habitat assessment for burrowing owl was conducted on December 16, 2021. The habitat assessment yielded suitable burrows despite this; no focused surveys were conducted to determine presence/absence of burrowing owls. After a habitat assessment, burrowing owl surveys are the second step of the project impact evaluation process. Burrowing owl surveys should be conducted whenever burrowing owl habitat or sign is encountered on or adjacent to (within 150 meters) a project site. It is most effective to conduct breeding and nonbreeding season surveys. Nonetheless, CDFW appreciates the inclusion of biological (BIO) mitigation measure (MM) one (MM BIO-1), which requires a pre-construction burrowing owl survey, and MM BIO-2, which considers burrowing owl avoidance, passive relocation, and mitigation in accordance with the 2012 Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012). CDFW recommends minor revisions to MM BIO-1 and MM BIO-2 as per bellow (edits are in ~~strikethrough~~ and **bold**):

(BIO-1) Burrowing Owl Pre-Construction Survey. Before **the start of** any ~~ether~~ ground disturbing activity, a pre-construction burrowing owl clearance survey must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, by a qualified biologist ~~within 14 days~~ **prior to the start of** ~~before the beginning of~~ project

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activities, and a secondary survey must be conducted by a qualified biologist within 24 hours before the start of project ~~activities construction~~ to determine if the project site contains burrowing owl or sign thereof and to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required, and a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW before construction. If occupied active burrows or signs thereof are found within the development footprint during the pre-construction clearance survey, Mitigation Measure BIO-2 shall apply.

(BIO-2) Burrowing Owl Passive Relocation. If active burrows or signs thereof are found within the development footprint during the pre-construction clearance surveys, site specific non-disturbance buffer zones shall be established by the qualified biologist and shall be no less than 300 feet. If determined appropriate, a smaller buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the burrows. A qualified biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation **at a minimum ratio of 2:1** for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

#### Desert Tortoise (*Gopherus agassizii*)

CDFW appreciates that a habitat assessment for desert tortoise was conducted on December 16, 2021. The habitat assessment determined that the Project site does not support any desert tortoise. It is worth noting that the habitat assessment was completed outside of the desert tortoise active season (active season is typically April to May or September to October) when desert tortoise is unlikely to be detected. As a state-threatened, proposed endangered species, CDFW appreciates that inclusion of MM BIO-3, which requires a pre-construction desert tortoise survey. Since the ISMND adopted a mitigation measure previously recommended by CDFW for desert tortoise, CDFW offers the following minor revisions to MM BIO-3 (edits are in ~~strikethrough~~ and **bold**):

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(BIO-3) Desert Tortoise Pre-Construction Survey. Prior to construction and issuance of any grading permit, a CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area, and 50-foot buffer no more than 48 hours prior to Project activities **and after any pause in Project activities lasting 30 days or more** during desert tortoise active season (April to May or September to October), in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Results of the survey shall be submitted to CDFW. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoises 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 (**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”**) to the desert tortoise. If complete avoidance cannot be achieved, CDFW recommends Project proponent not undertake Project activities and Project activities are postponed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained

#### Nesting Birds

CDFW appreciates the incorporation of MM BIO-4: Nesting Bird Pre-Construction Survey and offers the following revisions to MM BIO-4 (edits are in ~~strikethrough~~ and **bold**)

(BIO-4) Nesting Bird Pre-Construction Survey. **All Project activities on-site shall be conducted outside of the nesting bird season to the maximum extent feasible. Bird nesting season generally extends from January 1 through September 15 for raptors and February 1 through September 1 for passerine birds.** If construction occurs during the non-nesting season (typically September 16 through December 31), a pre-construction sweep shall be performed to verify the absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a 300- foot buffer surrounding the Project areas, within 2 hours before initiating Project activities. If project activities **cannot begin outside of the are planned during** bird nesting season (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1, a nesting bird survey shall be conducted by a qualified biologist ~~within thirty~~ no more than three (3) days prior to ~~before~~ the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. **Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts.** If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist **to be marked on the ground** around each nest. The buffer shall be a minimum of 300 feet for raptors

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and 100 feet for songbirds unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. **Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.** If there is no nesting activity, then no further action is needed for this measure.

#### Western Joshua Tree (*Yucca brevifolia*)

The ISMND identifies at least four (4) western Joshua tree (WJT) on the Project site. CDFW appreciates that the ISMND includes MM BIO-5, which considers a CESA Incidental Take Permit (ITP) for take of western Joshua tree WJT. Through MM BIO-5, the ISMND proposes mitigation and an impact analysis for take of WJT tree according to Emergency regulation 14 CCR Sections 749.10, 749.12, and 749.11. Please note that Emergency regulation 14 CCR Sections 749.10, 749.12, and 749.11 have expired.

CDFW recommends that prior to finalizing the ISMND, the City include a proper impact analysis assessing potential impacts within a 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 final 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 the following revisions MM BIO-5 below considering that at least 4 WJT are likely to be taken by the Project:

(BIO-5) Incidental Take Permit Required During Candidacy Period for Western Joshua Tree. If any western Joshua trees (WJT) are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from California Department of Fish and Wildlife (CDFW) under CDFW under §2081 of the California Endangered Species Act (CESA), prior to the relocation, removal, or take.

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**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”. 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 a CESA-listed species. CDFW recommends permanent protection of WJT habitat through the purchase of conservation or mitigation credits or establishing a conservation easement, developing of a long-term management plan, and establishing sufficient funding to implement management plan tasks in perpetuity. These tasks should be completed before starting Project ground-disturbing activities or by providing financial security. In order to execute an ITP, CDFW requires documentation of California Environmental Quality Act (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. The Project Proponent shall comply with the following measures as approved by the CDFW:**

- ~~a) Special Order 749.11 Mitigation for Qualifying Dead WJT. If the site has only dead WJT and these trees can qualify for mitigation under Special Order 749.11, the Project Proponent shall pursue mitigation under Special Order 749.11.~~
- ~~b) Seed Preservation for Non-Qualifying Dead WJT. If avoidance of dead WJT is infeasible, seeds shall be collected from the dead tree by a certified arborist or a qualified desert plant biologist and preserved at a CDFW approved repository. Subsequent to the collection of seeds, the dead tree can be removed for disposal.~~
- ~~c) Payment of Mitigation Fee to Western Joshua Tree Mitigation Fund. For unavoidable impacts to live WJT, the Project Proponents shall propose making a payment to the Western Joshua Tree Mitigation Fund as established under Special Order 749.10. This mitigation should strictly follow the census requirements, occupied habitat acreage calculation methodology, and mitigation ratio listed under Special Order 749.10. More specifically, Project Proponent shall calculate impacts to WJT and associated habitat using the impact area methodology identified in Special Order 749.10. Alternatively, the project proponent may pay a mitigation fee consistent with the mitigation fee requirements identified in Special Order 749.12.~~

In the event Joshua tree is not listed as a threatened species, ~~Mitigation Measure BIO-5 shall not apply~~ the Project would be subject to Municipal Code Chapter 13.33- Preservation and Removal of Joshua Trees. The code prohibits cutting, damaging, destroying, digging up, or harvesting of Joshua trees without written consent of the Director of Parks and Recreation. CDFW recommends the project analyze the impacts to Joshua trees and include appropriate avoidance, minimization, and/or mitigation for the impacts to allow the project to move forward regardless of the pending listing status.

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Mohave Ground Squirrel (*Xerospermophilus mohavensis*)

According to the Biological Resources Assessment (BRA), “occupiable burrows were found on site, but no Mohave ground squirrels were detected”. Because CDFW has concerns that the Project is within the range of the CESA threatened Mohave ground squirrel and the Project site supports suitable habitat for Mohave ground squirrel, CDFW recommends that the City adopt MM BIO-6 below:

**(BIO-6) Mohave Ground Squirrel Pre-construction Survey. Pre-construction surveys following the *Mohave Ground Squirrel Survey Guidelines* (CDFG 2010), or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by the California Department of Fish and Wildlife (CDFW). The pre-construction surveys shall cover the Project area and a 50- foot buffer zone. 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.**

Lake and Streambed Alteration Notification

As the BRA recognizes, the Project site is immediately adjacent to a drainage channel, located along Pahute Avenue. Additionally, based on aerial imagery water flows across the Project site from the northeast corner. Despite this, the ISMND does not consider potential impacts to Fish and Game Code section 1602 resources. Depending on how the Project is developed, Project activities may impact Fish and Game Code section 1602 resources. Thus, CDFW recommends that the final ISMND adopts MM BIO-7 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*, if notification under section 1602 of the Fish and Game Code is required for the Project, to obtain a CDFW-executed Lake and Streambed Alteration Agreement:

**(BIO-7) Lake and Streambed Alteration Notification. Prior to construction and issuance of any grading permit, the Project proponent 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 proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

**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

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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](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](mailto: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](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 MND the suggested mitigation measures (Attachment 1) offered by CDFW to avoid, minimize, and mitigate Project impacts on California fish and wildlife resources.

CDFW appreciates the opportunity to comment on the ISMND for the Tentative Parcel Map Case No. PLAN22-00001 (TPM 20491) Project (SCH No. 2022040494) and hopes our comments will assist the City in identifying, avoiding, minimizing, and mitigating Project impacts on fish and wildlife resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Lydia Rodriguez, Senior Environmental Scientist Specialist at [Lydia.Rodriguez@wildlife.ca.gov](mailto:Lydia.Rodriguez@wildlife.ca.gov).

## ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:  
  
84FBB8273E4C480...

Alisa Ellsworth  
Environmental Program Manager

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

## REFERENCES

Brittingham, S. and L. R. Walker. 2000. Facilitation of *Yucca brevifolia* recruitment by Mojave Desert shrubs. *Western North American Naturalist* 60(4): 374-383.

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: [http://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html](http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html)

Sweet, L. C., T. Green, J. G. C. Heintz, N. Frakes, N. Graver, J. S. Rangitsch, J. E. Rodgers, S. Heacox, and C. W. Barrows. 2019. Congruence between future distribution models and empirical data for an iconic species at Joshua Tree National Park. *Ecosphere* 10(6): e02763.

U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.

Waitman, B. A., S. B. Vander Wall, and T. C. Esque. 2012. Seed dispersal and seed fate in Joshua tree (*Yucca brevifolia*). *Journal of Arid Environments*

## 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.

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<b>Biological (BIO) Mitigation Measure</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p><b>BIO-1 Burrowing Owl Pre-Construction Survey</b></p> <p>Before the start of any ground disturbing activity, a pre-construction burrowing owl clearance survey must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, by a qualified biologist 14 days prior to the start of project activities, and a secondary survey must be conducted by a qualified biologist within 24 hours before the start of project activities to determine if the project site contains burrowing owl or sign thereof and to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required, and a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW before construction. If occupied active burrows or signs thereof are found within the development footprint during the pre-construction clearance survey, Mitigation Measure BIO-2 shall apply.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p><b>BIO-2 Burrowing Owl Passive Relocation</b></p> <p>If active burrows or signs thereof are found within the development footprint during the pre-construction clearance surveys, site specific non-disturbance buffer zones shall be established by the qualified biologist and shall be no less than 300 feet. If determined appropriate, a smaller buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the burrows. A qualified</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation at a minimum ratio of 2:1 for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.</p>		
<p><b>BIO-3 Desert Tortoise Pre-Construction Survey</b></p> <p>Prior to construction and issuance of any grading permit, a CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area, and 50-foot buffer no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more during desert tortoise active season (April to May or September to October), in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Results of the survey shall be submitted to CDFW. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoises 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 (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") to the desert tortoise. If complete avoidance cannot be achieved, CDFW</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>recommends Project proponent not undertake Project activities and Project activities are postponed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.</p>		
<p><b>BIO-4 Nesting Bird Pre-Construction Survey</b></p> <p>All Project activities on-site shall be conducted outside of the nesting bird season to the maximum extent feasible. Bird nesting season generally extends from January 1 through September 15 for raptors and February 1 through September 1 for passerine birds. If construction occurs during the non-nesting season (typically September 16 through December 31), a pre-construction sweep shall be performed to verify the absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a 300- foot buffer surrounding the Project areas, within 2 hours before initiating Project activities. If project activities cannot begin outside of the bird nesting season (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1, a nesting bird survey shall be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The buffer shall be a minimum of 300 feet for raptors and 100 feet for songbirds unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure.</p>		
<p><b>BIO-5 Incidental Take Permit Required During Candidacy Period for Western Joshua Tree</b></p> <p>If any western Joshua trees (WJT) are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from California Department of Fish and Wildlife (CDFW) under CDFW under §2081 of the California Endangered Species Act (CESA), prior to the relocation, removal, or 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”. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 &amp; 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 a CESA-listed species. CDFW recommends permanent protection of WJT habitat through the purchase of conservation or mitigation credits or establishing a conservation easement, developing of a long-term management plan, and establishing sufficient funding to implement management plan tasks in perpetuity. These tasks should be completed before starting Project ground-disturbing activities or by providing financial security. In order to execute an ITP, CDFW requires documentation of California Environmental Quality Act (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>In the event Joshua tree is not listed as a threatened species, the Project would be subject to Municipal Code Chapter 13.33- Preservation and Removal of Joshua Trees. The code prohibits cutting, damaging, destroying, digging up, or harvesting of Joshua trees</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>without written consent of the Director of Parks and Recreation. CDFW recommends the project analyze the impacts to Joshua trees and include appropriate avoidance, minimization, and/or mitigation for the impacts to allow the project to move forward regardless of the pending listing status.</p>		
<p><b>BIO-6 Mohave Ground Squirrel Pre-construction Survey</b></p> <p>Pre-construction surveys following the <i>Mohave Ground Squirrel Survey Guidelines</i> (CDFG 2010), or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by the California Department of Fish and Wildlife (CDFW). The pre-construction surveys shall cover the Project area and a 50- foot buffer zone. 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>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p><b>BIO-7 Lake and Streambed Alteration Notification</b></p> <p>Prior to construction and issuance of any grading permit, the Project proponent 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 proponent 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>