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August 5, 2022

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Governor's Office of Planning & Research

AUG 05 2022

STATE CLEARINGHOUSE

Subject: Mitigated Negative Declaration for Tentative Tract Map 83346/Variance No. 22-01, SCH #2022070207, City of Lancaster, Los Angeles County

Dear Ms. Garibay:

The California Department of Fish and Wildlife (CDFW) has reviewed the Tentative Tract Map 83346/Variance No. 22-01 (Project) Mitigated Negative Declaration (MND) from the City of Lancaster (City). The Project is proposed from Ruby Ridge, LLC (Project Applicant). Supporting documentation for the Project includes *Biological Resources Assessment of APN 3176-004-018, Lancaster, California* (BRA) dated April 8, 2021. CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 State fish and wildlife resources.

CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Conserving California's Wildlife Since 1870

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Project Description and Summary

Objective: The Project proposes to develop a 111-lot single-family residential subdivision on an approximately 27-acre area of land. A variance for the reduction of lot dimension requirements for 46 lots has also been requested as part of the application. This proposed subdivision would need shorter lot lengths to match those of the neighboring development. This subdivision would complete the remainder of the neighboring development. The entire Project site would be graded prior to construction activities. Development would include installation of access roads and utilities (e.g. water, sewer, and electric).

Location: The Project is located on the northeast corner of 5th Street East and Avenue H-8, Lancaster, California. The site is bounded by 5th Street East to the northwest and a block wall and single-family housing to the southwest. The eastern and northern edges of the site are bounded by dirt roads, 7th Street East and Avenue H-4 respectively. The southern boundary of the site is created by single-family homes and Avenue H-8. Single-family homes exist to the south of Avenue H-8.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. The MND should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151].

Specific Comments

Comment #1: Impacts on Western Joshua Trees (*Yucca brevifolia*)

Issue: The Project will impact western Joshua trees.

Specific impacts: The Project would remove approximately 11 western Joshua trees and impact an undisclosed acreage of western Joshua tree seedbank. The Project would alter on-site hydrology, which could also impact western Joshua tree and seedbank. In addition, maintenance of the residences could have indirect impacts on western Joshua tree and seedbank on site and in areas adjacent to the Project site.

Why impact would occur: Take of western Joshua tree is defined as any activity that results in the removal of a western Joshua tree, or any part thereof, or impacts the seedbank surrounding one or more western Joshua trees (CDFW 2022a). Within the Project site, the Project would require vegetation removal, grading, and compacting soils. As a result, the Project would remove western Joshua trees, eliminate and modify habitat, and crush and/or bury living seeds in the soil, rendering living seeds inviable and/or causing them to be killed.

While CDFW agrees with Mitigation Measure #2, that prior to any ground disturbing activities, the Project Applicant shall obtain an Incidental Take Permit (ITP), CEQA requires an adequate and complete effort of full disclosure of a project's significant environmental impacts [CEQA Guidelines, § 15003(i)]. While the MND discloses that the Project would have a significant impact on the 11 western Joshua trees on site, it is unclear how and where impacts on western

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Joshua trees and seedbank would occur. In addition, the MND does not disclose the extent of the Project's direct, indirect, and cumulative effect, either directly or through habitat modifications, on western Joshua tree or its seedbank. Nor does it discuss the Project's potential effects on in situ western Joshua trees/seedbank surrounding the site. As a result of insufficient disclosure in the MND, it is unclear what measures the City has taken to avoid or minimize any impacts prior to take of western Joshua trees. In addition, there is no mitigation disclosed other than obtaining an ITP for the Project. Overall, it is unclear how impacts to western Joshua trees have been sufficiently reduced to prevent a net loss of western Joshua tree.

Evidence impact would be significant: The western Joshua tree is a species designated as candidate for listing as threatened pursuant to CESA (Fish & G. Code, § 2050 *et seq.*). The western Joshua tree is granted full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Although the MND requires the Project Applicant to seek an ITP, the MND does not describe or disclose the compensatory mitigation required for the Project's impact on western Joshua trees, their seedbank, or in situ western Joshua trees adjacent to the site. Accordingly, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: The City should revise the MND to disclose the Project's impact on western Joshua tree by providing the following information:

- 1) The Project's potential impact on western Joshua tree seedbank within the Project site;
- 2) The Project's potential impact on western Joshua trees and seedbank adjacent to the Project site;
- 3) The Project's potential impact on each unique native and non-native natural community supporting western Joshua trees within and adjacent to the Project site;
- 4) The Project's construction, operation, and maintenance activities that could impact western Joshua trees and seedbank within and adjacent to the Project site; and
- 5) The Project's cumulative impact on western Joshua tree.

Recommendation #2: Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

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Mitigation Measure #1: CDFW concurs with Mitigation Measure #2 in the MND, which would require the City to obtain an ITP from CDFW for incidental take of western Joshua trees. The City should submit an ITP Application to CDFW that provides the following information (at a minimum):

- 1) An analysis of individual western Joshua trees (clonal and non-clonal) and western Joshua tree seedbank that would be impacted both within the Project site and within 300 feet of the Project site;
- 2) An analysis of the acres of natural communities supporting western Joshua trees that would be impacted both within the Project site and within 300 feet of the Project site provided according to alliance and/or association-based natural communities found in the [Manual of California Vegetation](#) (MCV), second edition (Sawyer et al. 2009);
- 3) A map of the Project's site plan overlaid on location of western Joshua trees and natural communities; and
- 4) A discussion of whether housing development could impact any in-situ western Joshua trees adjacent to the Project site.

Mitigation Measure #2: The City should provide compensatory mitigation for the Project's impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua trees issued by CDFW. Mitigation should be higher if the Project will impact a western Joshua tree population that is increasing through seedling recruitment. Mitigation lands provided by the City should (at a minimum):

- 1) Support western Joshua trees of similar density, abundance, and age structure;
- 2) Support natural communities of similar native plant species composition, density, structure, and function to habitat that was impacted;
- 3) Support nursery plants for western Joshua tree recruits; and
- 4) Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development.

Mitigation Measure #3: The City should require the Project Applicant to protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A mitigation plan should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that should be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.

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Comment #2: Impacts on Streams

Issue: The Project may impact two storm run-off channels along with ephemeral washes and clay pans.

Specific impacts: The Project may impact the bed, bank, and channel of a water course as a result of construction and activities that would expose soil surfaces to erosion, remove vegetation, and compact soils.

Why impact would occur: According to page 21 in the MND, "Two storm run-off channels from the adjacent residential areas were observed during the field survey along with ephemeral washes and clay pans." Mitigation Measure #5 on page 22 of the MND states, "Prior to any ground disturbing activities, the Project Applicant shall consult with the California Department of Fish and Wildlife to determine whether a Streambed Alteration Agreement is required for the ephemeral stream/washes on the project site. A copy of the agreement or documentation stating an agreement is unnecessary shall be submitted to the City of Lancaster prior to the issuance of any construction-related permits." The mitigation provided does not provide sufficient disclosure in the MND, therefore, CDFW is unable to discern the extent of the Project's impact on streams.

Evidence impacts would be significant: CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

The Project could result in reasonably foreseeable impacts on streams. Accordingly, the Project may have a significant impact on streams. The MND does not provide sufficient measures to mitigate for potentially significant impacts. Accordingly, the Project has a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #4: The City's notification to CDFW should provide the following information and analyses:

- 1) Linear feet of streams and area of associated vegetation that would be impacted;
- 2) Whether the Project would result in impacts on channels downstream from the Project site;
- 3) A hydrological evaluation of the 100-year flood event under existing conditions and Project build-out conditions to provide information on how water and sediment is conveyed through the Project site;

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- 4) A scour analysis demonstrating that stream banks, bed, and channel would not erode and be impaired (e.g., aggrade, incised) as a result of the Project; and
- 5) A complete description of routine maintenance activities that may be required for the life of the Project.

Mitigation Measure #5: The City should provide compensatory mitigation for impacts on streams and associated plant communities at no less than 2:1 or per requirements in a Lake and Streambed Alteration (LSA) Notification or LSA Agreement issued by CDFW. Mitigation should occur where a stream supports desert plant communities impacted by the Project and within the same watershed.

Recommendation #3: CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's CEQA document should fully identify the Project's potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW's comments and revise the MND by incorporating the mitigation measures and revisions recommended in this letter into the Project's final environmental document.

To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on and/or off-site habitat creation, enhancement, or restoration, and/or protection, and management of mitigation lands in perpetuity.

Comment #3: Impacts on Species of Special Concern - Reptiles

Issue: The Project may impact coast horned lizard (*Phrynosoma blainvillii*), a lizard designated as California Species of Special Concern (SSC).

Specific impacts: Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of an SSC. Also, loss of foraging, breeding, or nursery habitat for an SSC may occur.

Why impacts would occur: A review of the California Natural Diversity Database (CNDDDB), has shown occurrences of coast horned lizard within the Project vicinity. However, reptile SSC were not discussed in the BRA or the MND. As such, there is potential for the Project to impact SSC. Without appropriate avoidance or minimization measures, impacts to an SSC could result from ground-disturbing activities and vegetation removal. Wildlife may be trapped or crushed under structures. Large equipment, equipment and material staging, and vehicle and foot traffic could trample or bury wildlife. SSC could be injured or killed. Impacts on these SSC are more likely to occur because these are cryptic species that are less mobile and seek refuge under structures.

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Evidence impacts would be significant: A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;

- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022c).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The MND does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #6: Biological Monitor - To avoid direct injury and mortality of any SSC, CDFW recommends the City require the Project Applicant to have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where any SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution near flagged areas. A qualified biologist should be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of Project until the cessation of all ground disturbing activities to ensure that no wildlife of any kind is harmed.

Mitigation Measure #7: Scientific Collecting Permit – CDFW recommends the City require the Project Applicant retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other

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legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022d). Pursuant to the [California Code of Regulations, title 14, section 650](#), the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. The LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement (see Comment #2 Impacts on Streams).

Mitigation Measure #8: Wildlife Relocation Plan – Prior to initial ground and habitat disturbing activities and vegetation removal, CDFW recommends the Project Applicant retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan should describe all wildlife species that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan should include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant should submit a copy of a Wildlife Relocation Plan to the City prior to initial ground and habitat disturbing activities and vegetation removal. No wildlife nests, eggs, or nestlings may be removed or relocated at any time.

Mitigation Measure #9: Injured or Dead Wildlife – If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Comment #4: Impacts to Alkali Mariposa Lily

Issue: According to the MND, suitable habitat exists for alkali mariposa lily (*Calochortus striatus*) on site. There is no proposed mitigation to mitigate for impacts to alkali mariposa lily that may be on site.

Specific Impacts: Project activities may lead to the potential loss of an alkali mariposa lily population. This may result in a population decline of the species, or local extirpation of a sensitive or special status plant without appropriate mitigation

Why impacts would occur: CDFW is concerned that no further surveys for alkali mariposa lily are recommended despite suitable habitat being present. As stated, in the BRA, it was not an ideal year to find alkali mariposa lily, given the amount of rainfall.

Extirpation from Project site: The MND concludes that viable populations of alkali mariposa lily are not expected in the Project site “Due to the lack of rainfall and habitat conditions of the site, it is unlikely that mariposa lilies will be present in the future.” However, the extent of impacts to alkali mariposa lily may be more substantial than what was concluded. The Project site may support unidentified individuals, especially given the presence of suitable habitat (clay pans) in the Project site. Botanical surveys were conducted outside and very early (March and April) in the bloom period for alkali mariposa lily (typically April to June) and would not have maximized

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detection of alkali mariposa lily. Two surveys during this time and in a low rainfall year may not accurately capture rare population distribution and abundance because plants typically emerge at different times throughout its bloom period. Therefore, the BRA may have underreported the abundance, distribution, and density of alkali mariposa lilies. Moreover, a large population of alkali mariposa lily may exist via underground bulbs than what could be detected via above-ground plant surveys (Miller et al. 2004). The Project may develop over a substantial population of alkali mariposa lily and result in permanent loss of a propagule source. The proposed Project may result in extirpation of alkali mariposa lily from the Project site.

Extirpation: Extirpation of alkali mariposa lily from neighboring parcels or from the City may result because of cumulative impacts from development. According to CDFW's [California Natural Diversity Database](#) (CNDDDB), there are 41 documented extant occurrences of alkali mariposa lily dated 1980 to present (CDFW 2022e). Collectively, this Project and other proposed projects in the City could result in the extirpation of the species from within the City boundary. Decline in the species' abundance, range, and distribution in the State may also occur.

Evidence impacts would be significant: Alkali mariposa lily has a California Rare Plant Rank (CRPR) of 1B.2. Plants with a CRPR of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing (CNPS 2020). Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). California Native Plant Society's (CNPS) [Rare Plant Ranks](#) page includes additional rank definitions (CNPS 2020). Impacts to special status plants should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #10: CDFW strongly recommends two additional season-appropriate, focused rare plant surveys to occur between April and June to sufficiently document the abundance and distribution of alkali mariposa lily and other rare plants that may be present. CDFW recommends the survey be performed by a qualified botanist with appropriate experience and knowledge of southern California flora and performed according to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Surveys should be completed prior to Project-related ground-disturbing activities and the City's issuance of any grading permits.

Mitigation Measure #11: CDFW recommends the qualified botanist prepare a report summarizing survey methods and results. A final report should be submitted to CDFW for review prior to Project related ground-disturbing activities and the City's issuance of any grading permits. The survey report should provide the following information:

- 1) A description and map of the survey area. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys;

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- 2) Field survey conditions that should include name(s) of qualified botanists(s) and brief qualifications, date and time of survey, survey duration, general weather conditions, survey goals, and species searched;
- 3) Map and quantify the total area of suitable rare plant habitat by species;
- 4) Map(s) showing the location of individual plants or populations by species, and number of plants or density of plants per square feet occurring at each location. Use appropriate symbology, text boxes, and other map elements to show and distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation; and
- 5) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species).

Mitigation Measure #12: CDFW recommends the City compensate for the loss of individual plants and associated habitat acres. The Project Applicant should offset any loss of alkali mariposa lily such that there is no net loss or at a ratio acceptable to CDFW. Mitigation proposed to offset loss of suitable habitat should be disclosed in the final CEQA document. The mitigation proposed should also be justified as to how it would reduce the Project's impact on alkali mariposa lily to less than significant. If the mitigation proposed is through off-site acquisition, the off-site habitat should be similar in kind, as near to the Project site as possible, and protected in perpetuity under a conservation easement. CDFW recommends that mitigation occur at a CDFW-approved mitigation bank or via an entity that has been approved to hold and manage mitigation lands. Mitigation bank credits should be purchased, approved, or otherwise fully executed prior to Project-related ground-disturbing activities and the City's issuance of any grading permits.

Mitigation Measure #13: If credits at a CDFW-approved mitigation bank are not available for mitigating impacts to alkali mariposa lily and habitat, CDFW recommends setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. Mitigation lands should be in the same watershed as the Project site and support clay pans and/or alkali meadows containing alkali mariposa lilies. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to Project-related ground disturbing activities and the City's issuance of grading permits.

Recommendation #4: Prior to Project-related ground-disturbing activities, a qualified botanist familiar with southern California rare plants should collect all alkali mariposa lily bulbs if any are discovered within the Project site. CDFW recommends that alkali mariposa lily propagules collected be deposited as a Documented Conservation Seed Collection. A Documented Conservation Seed Collection is when propagules from a California Native Plant Society-ranked and/or CESA-listed plant species is collected and stored as part of a permanent genetic collection in a protected location. Documented conservation collections are important for conserving rare plant genetic material in order to provide a source material for future restoration and recovery and protect against possible species extinction.

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Comment #5: Inadequate Disclosure of Adequacy of Biological Impact Fee

Issue: The MND does not provide sufficient information for CDFW to evaluate the adequacy of the Biological Impact Fee to offset the cumulative loss of biological resources in the Antelope Valley.

Specific Impacts: The Project would develop approximately 27 acres of undeveloped land. This would result in permanent loss of habitat currently supporting western Joshua trees, Sensitive Natural Communities (e.g., *Yucca brevifolia* Woodland Alliance), burrowing owls, and other SSCs.

Why impacts would occur: According to page 22 in the MND, the Project's cumulative impacts on biological resources in the Antelope Valley would be mitigated through payment of a \$770/acre Biological Impact Fee. The Biological Impact Fee would "offset the cumulative loss of biological resources in the Antelope Valley as a result of development." The MND concludes that "no impacts would occur" with payment of the Biological Impact Fee. The MND does not explain or make a connection as to why payment of the Biological Impact Fee is adequate to offset Project impacts so that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The MND does not discuss or provide the following information:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire. It is unclear if the Biological Impact Fee would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Biological Impact Fee would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Biological Impact Fee protect/conserve;
- 5) Why the Biological Impact Fee is appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How \$770/acre is sufficient to purchase land or credits at a mitigation bank;
- 7) Where the City may acquire land or purchase credits at a mitigation bank so that the Biological Impact Fee would offset Project impacts on biological resources in the Antelope Valley;
- 8) When the City would use the Biological Impact Fee. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the City fails to implement its proposed mitigation;
- 9) How the City would commit the Project to paying the Biological Impact Fee. For example, when would the City require payment, how long would the Project Applicant have to pay the fee, and what mechanisms would the City implement to ensure the fee is paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4).
- 10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4);
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and
- 12) How the Biological Impact Fee would be adequate such that the Project would not

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have a cumulative impact on biological resources in the Antelope Valley.

Evidence impacts would be significant: The basic purpose of an environmental document is to provide public agencies and the public in general with detailed information about the effect a proposed project is likely to have on the environment, and ways and manners in which the significant effects of such a project might be minimized (Pub. Resources Code, §§ 21002.1, 21061). The MND is insufficient as an informational document because it fails to discuss the ways and manners in which the Biological Impact Fee would mitigate for the Project's cumulative impacts on biological resources in the Antelope Valley. Mitigation measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The MND does not provide enough information to facilitate meaningful public review and comment on the appropriateness of the Biological Impact Fee at mitigating for impacts on biological resources. This Project may have a significant effect on the environment because the Project may reduce habitat for rare plants or wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; and substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 15065(a)(1)]. Furthermore, the Project may contribute to the ongoing loss of sensitive, special status, threatened, and/or endangered plants, wildlife, and natural communities in the Antelope Valley. The Project may have possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)]. The City is acknowledging that the Project would contribute to the cumulative loss of biological resource in the Antelope Valley because the City is proposing a Biological Impact Fee as compensatory mitigation. The Biological Impact Fee may be inadequate mitigation absent commitment, specific performance standards, and actions to achieve performance standards. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #5: CDFW recommends the City revise the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How the Biological Impact Fee/program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire;
- 4) What biological resources would the Biological Impact Fee protect/conservate;
- 5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;
- 6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;
- 7) Where land would be acquired or where the mitigation bank is located;
- 8) When the Biological Impact Fee would be used; and,
- 9) How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant

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information in addressing these concerns (CEQA Guidelines, § 15147).

Recommendation #6: The MND should include a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the MND should provide specifics as to when the City would pay the Biological Impact Fee; what mechanisms the City would implement to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project's impacts. Also, the MND should provide specific performance standards as well as actions to achieve those performance standards.

Additional Recommendations

Recommendation #7: Swainson's hawks (*Buteo swainsoni*), a CESA-listed species, are regularly observed foraging throughout Antelope Valley. The BRA mentions that "A Swainson's hawk was documented nesting off Division and Avenue G in 2016 which is within the 5-mile radius of concern (eBird 2021)." In addition, the BRA states, "small prey for Swainson's hawk, such as California ground squirrels, desert cottontail (*Sylvilagus auduboni*), and antelope ground squirrels (*Ammospermophilus leucurus*) are present." The MND also states, "It is unlikely Swainson's hawk would nest within or close to the study site given their documented trends." However, there is no further discussion or disclosure as to the trends to which the document is referring to.

CDFW recommends potential direct and indirect impacts on Swainson's hawk be evaluated in the Project's environmental document. The MND should discuss Swainson's hawks "documented trends" and how the City concludes that this would result in no impacts to Swainson's hawk. Regardless of trends, CDFW recommends the environmental document disclose how the Project avoids impacts to nesting habitat, foraging opportunities, and overall population on a local and regional scale. If the Project would impact Swainson's hawk, the Project and environmental document should be conditioned to avoid and/or mitigate potential impacts to Swainson's hawk as well as habitat supporting the species. For unavoidable impacts, mitigation may include consultation with CDFW and/or USFWS and obtaining appropriate take authorization under CESA.

Recommendation #8: CDFW recommends modifying Mitigation Measure #4 on page 21 of the MND to include underlined language and remove language with strikethrough.

"To protect nesting birds that may occur within and in areas adjacent to the Project site, Project construction should occur between September 1 through January 31, outside of the nesting bird season or to the greatest extent possible. The Project Applicant should not remove or disturb trees or vegetation during the bird nesting season, which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their nests, eggs, or nestlings. If Project construction and activities must occur during the bird nesting season, the Project Applicant should retain a qualified biologist to conduct a nesting bird survey. A nesting bird survey shall be conducted by the qualified biologist within 30 7 days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work shall cease until either the young birds have fledged or the appropriate permits are obtained from the California Department of Fish and Wildlife (CDFW). If active bird nests are identified using the Project site during the survey, the Project Applicant shall contact the California Department of Fish and Wildlife to determine the appropriate

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mitigation/management requirements. Impact to nests will be avoided by delay of work or establishing a buffer of 500 feet around active raptor nests and 50 feet around other migratory bird species nests.”

Please be advised that CDFW does not issue permits for take of bird and raptor nests, eggs, or nestlings.

Recommendation #9: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022d). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW’s Vegetation Classification and Mapping Program (CDFW 2022e).

Recommendation #10: Rodenticides and second-generation anticoagulant rodenticides should be prohibited both during and over the life of the Project.

Recommendation #11: CDFW recommends the City update the Project’s proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The City is welcome to coordinate with CDFW to further review and refine the Project’s mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

Conclusion

CDFW appreciates the opportunity to provide early comments and recommendations regarding the Project to assist the City of Lancaster in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW looks forward to reviewing an ensuing Project-related environmental document. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 292-8105.

Sincerely,

DocuSigned by:



5991E19EF8094C3...

Victoria Tang signing for

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

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ec: CDFW
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City of Lancaster
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- Calflora. 2020. Information on Wild California Plants. Available from: <https://www.calflora.org/>.
- [CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Accessed at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.
- [CDFWa] California Department of Fish and Wildlife. 2022. Trimming of western Joshua trees and removal of dead western Joshua trees. What is “Take”? Available from: <https://wildlife.ca.gov/Conservation/CESA/WJT>
- [CDFWb] California Department of Fish and Wildlife. 2022. Scientific Collecting Permit. Available from: <https://wildlife.ca.gov/Licensing/Scientific-Collecting#53949678>
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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Impacts to Joshua tree- CESA ITP	The City will need to obtain an ITP from CDFW for incidental take of western Joshua trees. The City shall submit an ITP Application to CDFW that provides the following information (at a minimum): 1) An analysis of individual western Joshua trees (clonal and non-clonal) and western Joshua tree seedbank that would be impacted both within the Project site and within 300 feet of the Project site; 2) An analysis of the acres of natural communities supporting western Joshua trees that would be impacted both within the Project site and within 300 feet of the Project site provided according to alliance and/or association-based natural communities found in the Manual of California Vegetation (MCV), second edition (Sawyer et al. 2009); 3) A map of the Project's site plan overlaid on location of western Joshua trees and natural communities; 4) A discussion of whether housing development could impact any in-situ western Joshua trees adjacent to the Project site.	Prior to issuance of development permit	City of Lancaster (City)/Project Applicant

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<p>MM-BIO-2- Impacts to Joshua tree- survey and impact assessment</p>	<p>The City shall provide compensatory mitigation for the Project’s impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua trees issued by CDFW. Mitigation shall be higher if the Project will impact a western Joshua tree population that is increasing through seedling recruitment. Mitigation lands provided by the City shall (at a minimum): 1) Support western Joshua trees of similar density, abundance, and age structure; 2) Support natural communities of similar native plant species composition, density, structure, and function to habitat that was impacted; 3) Support nursery plants for western Joshua tree recruits; and, 4) Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development.</p>	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>
<p>MM-BIO-3- Impacts to Joshua tree- avoidance plan</p>	<p>The City shall require the Project Applicant to protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A mitigation plan shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human</p>	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>

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	intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.		
MM-BIO-4- Impacts to streams-Lake and Streambed Alteration Notification	The City's notification to CDFW shall provide the following information and analyses: 1) Linear feet of streams and area of associated vegetation that would be impacted; 2) Whether the Project would result in impacts on channels downstream from the Project site; 3) A hydrological evaluation of the 100-year flood event under existing conditions and Project build-out conditions to provide information on how water and sediment is conveyed through the Project site; 4) A scour analysis demonstrating that stream banks, bed, and channel would not erode and be impaired (e.g., aggrade, incised) as a result of the Project, and; 5) A complete description of routine maintenance activities that may be required for the life of the Project.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-5- Impacts to streams-Lake and Streambed Alteration Notification	The City should provide compensatory mitigation for impacts on streams and associated plant communities at no less than 2:1 or per requirements in an LSA Notification or LSA Agreement issued by CDFW. Mitigation should occur where a stream supports desert plant communities impacted by the Project and within the same watershed.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-6- Biological Monitor	To avoid direct injury and mortality of SSC, CDFW recommends the City require the Project Applicant to have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified	Prior to Project ground disturbing activities	City/Project Applicant

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	<p>biologist shall advise workers to proceed with caution near flagged areas. A qualified biologist shall be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of Project until the cessation of all ground disturbing activities to ensure that no wildlife is harmed.</p>		
<p>MM-BIO-7- Scientific Collecting Permit</p>	<p>CDFW recommends the City require the Project Applicant retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2022d). Pursuant to the California Code of Regulations, title 14, section 650, the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. The LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement (see Comment #2 Impacts on Streams).</p>	<p>Prior to Project ground disturbing activities</p>	<p>City/Project Applicant</p>
<p>MM-BIO-8- Wildlife Relocation Plan</p>	<p>Prior to initial ground and habitat disturbing activities and vegetation removal, CDFW recommends the Project Applicant retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan shall describe all wildlife species that</p>	<p>Prior to Project ground</p>	<p>City/Project Applicant</p>

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	could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan shall include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant shall submit a copy of a Wildlife Relocation Plan to the City prior to initial ground and habitat disturbing activities and vegetation removal. No bird nests, eggs, or nestlings may be removed or relocated at any time (see Comment #5: Impacts on Nesting Birds).	disturbing activities	
MM-BIO-9- Injured or Dead Wildlife	If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW and the City within three calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	Prior to Project ground disturbing activities	City/Project Applicant
MM-BIO-10- Impacts to sensitive plant communities- surveys	Two additional season-appropriate, focused rare plant surveys shall occur between April and June to sufficiently document the abundance and distribution of alkali mariposa lily and other rare plants that may be present. The survey shall be performed by a qualified botanist with appropriate experience and knowledge of southern California flora and performed according to CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Surveys shall be completed prior to Project-related ground-disturbing activities and the City's issuance of any grading permits.	Prior to issuance of development permit	City/Project Applicant

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<p>MM-BIO-11- Impacts to sensitive plant communities- report preparation</p>	<p>The qualified botanist shall prepare a report summarizing survey methods and results. A final report shall be submitted to CDFW for review prior to Project related ground-disturbing activities and the City's issuance of any grading permits. The survey report shall provide the following information:</p> <ol style="list-style-type: none"> 1) A description and map of the survey area. The map will show surveyor(s) track lines to document that the entire site was covered during field surveys; 2) Field survey conditions that shall include name(s) of qualified botanists(s) and brief qualifications, date and time of survey, survey duration, general weather conditions, survey goals, and species searched; 3) Map and quantify the total area of suitable rare plant habitat by species; 4) Map(s) showing the location of individual plants or populations by species, and number of plants or density of plants per square feet occurring at each location. Use appropriate symbology, text boxes, and other map elements to show and distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation; and, 5) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, shall include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species). 	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>
<p>MM-BIO-12- Impacts to sensitive plant communities- compensatory mitigation</p>	<p>The City shall compensate for the loss of individual plants and associated habitat acres The Project Applicant should offset any loss of alkali mariposa lily such that there is no net loss or at a ratio acceptable to CDFW. Mitigation proposed to offset loss of suitable habitat should be disclosed in the final CEQA document. The mitigation proposed should also be justified as to how it would reduce the Project's impact on alkali mariposa lily to less than</p>	<p>Prior to Project ground disturbing activities</p>	<p>City/Project Applicant</p>

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	<p>significant. If the mitigation proposed is through off-site acquisition, the off-site habitat should be similar in kind, as near to the Project site as possible, and protected in perpetuity under a conservation easement. Mitigation shall occur at a CDFW-approved mitigation bank or via an entity that has been approved to hold and manage mitigation lands. Mitigation bank credits shall be purchased, approved, or otherwise fully executed prior to Project-related ground-disturbing activities and the City's issuance of any grading permits.</p>		
<p>MM-BIO-13- Impacts to sensitive plant communities-mitigation bank</p>	<p>If credits at a CDFW-approved mitigation bank are not available for mitigating impacts to alkali mariposa lily and habitat, replacement habitat shall be set aside to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. Mitigation lands shall be in the same watershed as the Project site and support clay pans and/or alkali meadows containing alkali mariposa lilies. The abundance of alkali mariposa lilies and total habitat acreage within the mitigation lands shall be no less than 10:1. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to Project-related ground disturbing activities and the City's issuance of grading permits.</p>	<p>Prior to Project ground disturbing activities</p>	<p>City/Project Applicant</p>
<p>REC-1-Impacts to Joshua tree</p>	<p>The City should revise the MND to disclose the Project's impact on western Joshua tree by providing the following information: 1) The Project's potential impact on western Joshua tree seedbank within the Project site; 2) The Project's potential impact on western Joshua trees and seedbank adjacent to the Project site; 3) The Project's potential impact on each unique native and non-native natural community supporting western Joshua trees within and adjacent to the Project</p>	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>

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	<p>site;</p> <p>4) The Project's construction, operation, and maintenance activities that could impact western Joshua trees and seedbank within and adjacent to the Project site; and,</p> <p>5) The Project's cumulative impact on western Joshua tree.</p>		
REC-2-Impacts to Joshua tree	<p>Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document D. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.</p>	Prior to issuance of development permit	City/Project Applicant
REC-3-Impacts to streams-Lake and Streambed Alteration Notification	<p>CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's CEQA document should fully identify the Project's potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW's comments and revise the MND by incorporating the mitigation measures and revisions recommended in this letter into the Project's final environmental</p>	Prior to issuance of development permit	City/Project Applicant

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	<p>document.</p> <p>To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on and/or off-site habitat creation, enhancement, or restoration, and/or protection, and management of mitigation lands in perpetuity</p>		
REC-4-Impacts to sensitive plant communities-bulb collection	<p>Prior to Project-related ground-disturbing activities, a qualified botanist familiar with southern California rare plants should collect all alkali mariposa lily bulbs if any are discovered within the Project site. CDFW recommends that alkali mariposa lily propagules collected be deposited as a Documented Conservation Seed Collection. A Documented Conservation Seed Collection is when propagules from a California Native Plant Society-ranked and/or CESA-listed plant species is collected and stored as part of a permanent genetic collection in a protected location. Documented conservation collections are important for conserving rare plant genetic material in order to provide a source material for future restoration and recovery and protect against possible species extinction.</p>	Prior to issuance of development permit	City/Project Applicant
REC-5-Biological Impact Fee	<p>CDFW recommends the City revise the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:</p> <ol style="list-style-type: none"> 1) Whether the Biological Impact Fee is going towards an established program; 2) How the Biological Impact Fee/program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA; 3) What the Biological Impact Fee would acquire; 4) What biological resources would the Biological Impact Fee protect/conserve; 5) Why the Biological Impact Fee is appropriate for mitigating 	Prior to finalizing CEQA document	City/Project Applicant

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 August 5, 2022
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	<p>the cumulative loss of biological resources in the Antelope Valley;</p> <p>6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;</p> <p>7) Where land would be acquired or where the mitigation bank is located;</p> <p>8) When the Biological Impact Fee would be used; and,</p> <p>9) How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).</p>		
REC-6- Biological Impact Fee	<p>The MND should include a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the MND should provide specifics as to when the City would pay the Biological Impact Fee; what mechanisms the City would implement to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project's impacts. Also, the MND should provide specific performance standards as well as actions to achieve those performance standards.</p>	Prior to Project ground disturbing activities	City/Project Applicant
REC-7- Swainson's Hawk	<p>Swainson's hawks (<i>Buteo swainsoni</i>), a CESA-listed species, are regularly observed foraging throughout Antelope Valley. The BRA mentions that "A Swainson's hawk was documented nesting off Division and Avenue G in 2016 which is within the 5-mile radius of concern (eBird 2021)." In addition, the BRA states, "small prey for Swainson's hawk, such as California ground squirrels, desert cottontail (<i>Sylvilagus auduboni</i>), and antelope ground squirrels (<i>Ammospermophilus leucurus</i>) are present."</p> <p>CDFW recommends potential direct and indirect impacts on Swainson's hawk be evaluated in the Project's environmental document. If the Project would impact Swainson's hawk, the</p>	Prior to Project ground disturbing activities	City/Project Applicant

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	<p>Project and environmental document should be conditioned to avoid and/or mitigate potential impacts to Swainson’s hawk as well as habitat supporting the species. For unavoidable impacts, mitigation may include consultation with CDFW and/or USFWS and obtaining appropriate take authorization under CESA.</p>		
<p>REC-8-Nesting Birds</p>	<p>CDFW recommends modifying Mitigation Measure #4 on page 21 of the MND to include <u>underlined</u> language and remove language with strikethrough.</p> <p><u>“To protect nesting birds that may occur within and in areas adjacent to the Project site, Project construction should occur between September 1 through January 31, outside of the nesting bird season the greatest extent possible. The Project Applicant should not remove or disturb trees or vegetation during the bird nesting season, which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their nests, eggs, or nestlings. If Project construction and activities must occur during the bird nesting season, the Project Applicant should retain a qualified biologist to conduct a nesting bird survey. A nesting bird survey shall be conducted by the qualified biologist within 30 7 days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work shall cease until either the young birds have fledged or the appropriate permits are obtained from the California Department of Fish and Wildlife (CDFW). If active bird nests are identified using the Project site during the survey, the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements. Impact to nests will be avoided by delay of work or establishing a buffer of 500 feet around active raptor nests and 50 feet around other migratory bird species nests.”</u></p>	<p>Prior to Project ground disturbing activities</p>	<p>City/Project Applicant</p>

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	Please be advised that CDFW does not issue permits for take of bird and raptor nests, eggs, or nestlings.		
REC-9-Plant Forms	CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms (CDFW 2022d). Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022e).	Prior to/During/ After Project construction and activities	City/Project Applicant
REC-10-Rodenticides	Rodenticides and second-generation anticoagulant rodenticides should be prohibited both during and over the life of the Project.	Prior to/During/ After Project construction and activities	City/Project Applicant
REC-11-MMRP	CDFW recommends the City update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).	Prior to finalizing/ adopting CEQA document	City/Project Applicant