



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



October 10, 2022
Sent via email

Alex Rubalcava
Assistant Planner
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Secure Space Self-Storage (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2022090321

Dear Mr. Rubalcava:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Palm Springs for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines¹.

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.

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

CDFW may also act as a Responsible Agency regarding any discretionary actions under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381), such as the issuance of a Lake or Streambed Alteration Agreement (Fish & G. Code Sections 1600 *et seq.*), a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (Fish & G. Code Sections 2080 and 2080.1), and/or for administering the Natural Community Conservation Planning Program (NCCP). CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Insite Property Group

Objective: The project proposes to develop a 6.43-acre parcel of land. Proposed development consists of one 3-story self-storage building and leasing office comprising 127,200 square feet for 975 self-storage rooms, 182 covered RV stalls, and 11 parking stalls totaling an impervious area of 242,000 square feet. The main storage facility will be constructed on the southern half of the property, and much of the Project site will be covered by asphalt to provide RV parking on the northern portion of the property.

Location: The proposed project is located in the City of Palms Springs within a parcel located north of West San Rafael Drive and east of McCarthy Road. The Project is located within Assessor's Parcel Numbers 669-430-019 and 669-430-016.

Timeframe: The MND does not indicate a timeframe for construction of the Project.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant. CDFW offers the comments and recommendations below to assist City of Palm Springs in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. CDFW is concerned about the potential for special-status species, including those not covered under the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), to occur on the Project site. The MND does not base its conclusions on a general assessment of biological resources or surveys for rare, threatened, endangered, and other special-status species, including California

Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), located within the Project footprint and surrounding areas with the potential to be affected. An assessment and surveys are needed to inform appropriate avoidance, minimization, and mitigation measures. Furthermore, the mitigation measures provided in the MND are not adequate to protect burrowing owl and nesting birds.

1) Assessment and Analysis of Impacts to Biological Resources

Assessment of Biological Resources

CDFW is concerned about the potential for special-status species, including those not covered under the CVMSHCP (see “Special-Status Plants” below), to occur on the Project site. The findings in the MND do not appear to be based on any recent general assessment of biological resources or surveys for rare, threatened, endangered, and other special-status species located within the Project footprint and surrounding areas. Mitigation measures in the MND are confined to preconstruction surveys. CDFW is concerned that waiting to assess the Project site for the presence of biological resources, including special-status species, until the time of construction (1) does not identify potential impacts of the Project activities on biological resources and (2) may not mitigate impacts to a level that is less than significant. Even species covered by the CVMSHCP may require avoidance and minimization measures according to provisions of the plan (see “Burrowing Owl” and “CVMSHCP Implementation” sections below).

The MND should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other special-status species and their associated habitats and an analysis of the level of impacts the Project will have on these resources. CDFW recommends that the MND is revised to include the following:

- 1) An assessment of the various habitat types located within the project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
- 2) A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the project. CDFW’s California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDDB@wildlife.ca.gov to obtain current information on any previously reported sensitive species and habitat, including

Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project.

- 3) A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a CVMSHCP Acceptable Biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

Absent the above-mentioned information, CDFW cannot concur that the Project will not have a significant effect on fish and wildlife resources. CDFW suggests this information, and any necessary mitigation measures, be addressed in a recirculated MND. If the City of Palm Springs foregoes the recommended analysis and disclosure of these potential resource impacts, CDFW recommends the following measure be adopted along with the other measures provided below.

Mitigation Measure BIO-[X]: General Biological Surveys, Reporting, and Mitigation

Within 12 months prior to the initiation of Project activities, and during the appropriate periods (e.g., seasons, weather conditions, times of day) to identify species potentially occurring onsite, the Project Proponent shall conduct general and, if necessary, focused biological surveys to identify special-status species and habitats that may occur on the Project site. If special-status species or habitats are identified onsite, the Project Proponent shall provide a report to CDFW and the Lead Agency identifying the extent of potential impacts. The Lead Agency shall assess the level of impacts and determine if mitigation measures are necessary to reduce the level of significance and shall provide to CDFW for review, preferably through an amended and recirculated CEQA document, the proposed approach to addressing the identified impacts. The Lead Agency's participation in the CVMSHCP should also be addressed in the proposed approach.

Burrowing Owl (*Athene cunicularia*)

Burrowing owl is a California Species of Special Concern. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Burrowing owl is a Covered Species under the CVMSHCP, which requires that avoidance and minimization measures be implemented for this species.

The MND indicates that burrowing owls have the potential to occur onsite, but the MND does not indicate if a burrowing owl habitat assessment or focused surveys were conducted to determine if burrowing owls are present. CDFW recommends that the City of Palms Springs follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012 or most recent version); available for download from CDFW's website:

<https://www.wildlife.ca.gov/conservation/survey-protocols>. The *Staff Report on Burrowing Owl Mitigation* specifies that project impact evaluations include the following steps: (1) habitat assessment, (2) surveys, and (3) an impact assessment. The three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance and minimization measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period. CDFW recommends that the City include in a revised MND the findings of a burrowing owl habitat assessment, and, if needed, focused surveys and an impact assessment.

CDFW is concerned that because the MND lacks a general assessment of biological resources and surveys, waiting until preconstruction surveys to assess whether burrowing owl is on the Project site will not reduce impacts to less than significant. Therefore, CDFW recommends that the City include in a revised MND the following revisions to Mitigation Measure BIO-1, with removals in ~~strikethrough~~ and additions in **bold**:

Mitigation Measure BIO-1: Burrowing Owls

~~To mitigate potential impacts to burrowing owl, two pre-construction surveys shall be conducted in accordance with CDFW protocol. The first survey shall occur~~

~~between 14 and 30 days prior to ground disturbance, and the second shall occur within 24 hours of the initiation of ground disturbance activities for any phase of development on the Project site.~~

~~• If no owls are detected during those surveys, ground disturbance may proceed without further consideration of this species, assuming there is no lapse between the surveys and construction, because the protocol states “time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.”~~

~~• If burrowing owls are detected during the surveys, avoidance and minimization measures shall be required. Avoidance and minimization measures may include establishing a buffer zone, installing a visual barrier, implementing burrow exclusion and/or closure techniques, in conformance with CDFW protocol.~~

No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012 or most recent version).

If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation*. If burrowing owls are detected during the focused surveys, the qualified biologist and Project Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.

Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities.

Special Status Plants

A query of the California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS) identified an occurrence of chaparral sand-verbena (*Abronia villosa* var. *aurita*), a plant species with a California Rare Plant Rank of 1B.1, overlapping the Project site. The California Rare Plant Rank 1B indicates plants that are rare, threatened, or endangered in California and elsewhere. Impacts to these species must be analyzed during preparation of environmental documents relating to CEQA because they meet the definition of rare or endangered under CEQA Guidelines §15125 (c) and/or §15380.

The MND lacks an inventory of rare, threatened, endangered, and other sensitive plant species located within the Project footprint. Biological surveys are needed to determine if chaparral sand-verbena or other rare, threatened, endangered, and sensitive plant species are located within the Project site. CDFW generally considers biological field assessments for rare plants to be valid for a period of up to three years. CDFW recommends that a thorough, recent, floristic-based assessment of special-status plants is completed at the appropriate time(s) of year before the City of Palm Springs adopts the MND. The results of this assessment should be included in a revised MND. If any rare, threatened, endangered, or other sensitive species are located within the Project site, CDFW recommends that the MND is revised to include appropriate avoidance minimization, and mitigation measures.

CDFW recommends that the City include in a revised MND Mitigation Measure BIO-[Y]: Special-Status Plant Species:

Mitigation Measure BIO-[Y]: Special-Status Plant Species

A thorough floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018 or most recent version) shall be performed by a

qualified biologist at the appropriate time(s) of year and prior to commencing Project activities. Should any special status plants or natural communities be present in the Project area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site. If successful transplantation of perennial species is determined by a qualified restoration specialist, a receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from special status annual plant species to a natural site as a conservation strategy to minimize Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.

Nesting Bird Protection

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

The MND indicates that the Project site has the potential to support nesting birds. Although the MND includes Mitigation Measure BIO-2 for nesting birds, the timing and scope are insufficient. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site be avoided **any time birds are nesting onsite**. Preconstruction nesting bird surveys shall be performed within 3 days prior to Project activities to determine the presence and location of nesting birds.

CDFW recommends that the City include in a revised MND the following revisions to Mitigation Measure BIO-2, with additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-2: ~~Migratory Bird Treaty~~ **Avoidance of Nesting Birds**

~~If ground disturbance or tree or plant removal is proposed between February 1st and August 31st, a qualified biologist shall conduct a nesting bird survey within 7~~

~~to 10 days of initiation of grading onsite, focusing on MBTA covered species. If active nests are reported, then species specific measures shall be prepared. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. For construction that occurs between September 1st and January 31st, no pre-removal nesting bird survey is required.~~

~~• In the event active nests are found, exclusionary fencing shall be placed around the nests until such time as nestlings have fledged. Avoidance buffers shall be 100 to 300 feet from the nests of unlisted songbirds, and 500 feet from the nests of birds of prey and listed species.~~

Nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Established buffers shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

2) CVMSHCP Implementation

Within the Inland Deserts Region, CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the CVMSHCP per Section 2800, *et seq.*, of the California Fish and Game Code on September 9, 2008. The CVMSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. Compliance with approved habitat plans, such as the CVMSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the CVMSHCP as a result of this Project is necessary

to address CEQA requirements. To obtain additional information regarding the CVMSHCP please go to: <http://www.cvmshcp.org/>.

The proposed Project occurs within the CVMSHCP Plan Area, is not located within a Conservation Area, and is subject to the provisions and policies of the CVMSHCP. To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. The City of Palm Springs is the Lead Agency and a Permittee of the CVMSHCP. To demonstrate consistency with the CVMSHCP, the MND should address, at a minimum, the City's obligations to collect fees as set forth in Section 5.2 of the CVMSHCP.

CDFW recommends that the City include in a revised MND Mitigation Measure BIO-[Z]:

Mitigation Measure BIO-[Z]: CVMSHCP Compliance

Prior to construction and issuance of any grading permit, the City of Palm Springs shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

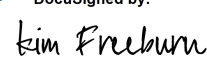
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental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

CONCLUSIONS

CDFW appreciates the opportunity to comment on the MND to assist the City of Palm Springs in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate for the Project's significant, or potentially significant, impacts on biological resources. CDFW recommends general biological assessment of the Project site and an inventory of rare, threatened, endangered, and other special-status species located within the Project footprint and surrounding areas. Based on findings, appropriate avoidance, minimization, and mitigation should be incorporated into a revised MND. CDFW requests that the City of Palm Springs recirculate a revised MND (CEQA Guidelines § 15073.5, subd. (b)(1)) in which the Project's impacts to biological resources are identified and disclosed, as well as whether those impacts can be mitigated to a level that is less than significant. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Environmental Scientist, at jacob.skaggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@Wildlife.ca.gov

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

Rollie White, U.S. Fish and Wildlife Service
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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>CDFW recommends the following measure be adopted along with the other measures provided below.</p> <p>Mitigation Measure BIO-[X]: General Biological Surveys, Reporting, and Mitigation</p> <p>Within 12 months prior to the initiation of Project activities, and during the appropriate periods (e.g., seasons, weather conditions, times of day) to identify species potentially occurring onsite, the Project Proponent shall conduct general and, if necessary, focused biological surveys to identify special-status species and habitats that may occur on the Project site. If special-status species or habitats are identified onsite, the Project Proponent shall provide a report to CDFW and the Lead Agency identifying the extent of potential impacts. The Lead Agency shall assess the level of impacts and determine if mitigation measures are necessary to reduce the level of significance and shall provide to CDFW for review, preferably through an amended and recirculated CEQA document, the proposed approach to addressing the identified impacts. The Lead Agency’s participation in the CVMSHCP should also be addressed in the proposed approach.</p>	<p>Timing: Within 12 months prior to commencement of Project activities and during the appropriate periods (e.g., seasons, weather conditions, times of day) to identify species potentially occurring onsite</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: City of Palm Springs</p>
<p>CDFW recommends that the City include in a revised MND the following revisions to Mitigation Measure BIO-1, with removals in strikethrough and additions in bold:</p> <p>Mitigation Measure BIO-1: Burrowing Owls</p> <p>To mitigate potential impacts to burrowing owl, two pre-construction surveys shall be conducted in accordance with CDFW protocol. The first survey shall occur between 14 and 30 days prior to ground disturbance, and the second shall occur within 24 hours of the initiation of ground disturbance activities for any phase of development on the Project site.</p> <p>• If no owls are detected during those surveys,</p>	<p>Timing: Sixty days prior to commencement of Project activities for habitat assessment (and focused surveys if needed); 14 days prior to commencement of Project activities for preconstruction surveys</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: City of Palm Springs</p>

<p>ground disturbance may proceed without further consideration of this species, assuming there is no lapse between the surveys and construction, because the protocol states “time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.”</p> <p>• If burrowing owls are detected during the surveys, avoidance and minimization measures shall be required. Avoidance and minimization measures may include establishing a buffer zone, installing a visual barrier, implementing burrow exclusion and/or closure techniques, in conformance with CDFW protocol.</p> <p>No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the <i>Staff Report on Burrowing Owl Mitigation</i> (Department of Fish and Game, March 2012 or most recent version)..</p> <p>If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist according to the Staff Report on Burrowing Owl Mitigation. If burrowing owls are detected during the focused surveys, the qualified biologist and Project Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers, and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is</p>	<p>Methods: See Mitigation Measure</p>	
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<p>not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities.</p>		
<p>CDFW recommends that the City include in a revised MND the following revisions to Mitigation Measure BIO-2, with additions in bold and removals in strikethrough:</p> <p>Mitigation Measure BIO-2: Migratory Bird Treaty Avoidance of Nesting Birds</p> <p>If ground disturbance or tree or plant removal is proposed between February 1st and August 31st, a qualified biologist shall conduct a nesting bird survey within 7 to 10 days of initiation of grading onsite, focusing on MBTA covered species. If active nests are reported, then species specific measures shall be prepared. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. For construction that occurs between September 1st and January 31st, no pre-removal nesting bird survey is required.</p> <p>• In the event active nests are found, exclusionary fencing shall be placed around the nests until such time as nestlings have fledged. Avoidance buffers shall be 100 to 300 feet from</p>	<p>Timing: No more than 3 days prior to vegetation removal or ground-disturbing activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: City of Palm Springs</p>

<p>the nests of unlisted songbirds, and 500 feet from the nests of birds of prey and listed species.</p> <p>Nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Established buffers shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p>		
<p>CDFW recommends that the City include in a revised MND Mitigation Measure BIO-[Y]: Special-Status Plant Species:</p> <p>Mitigation Measure BIO-[Y]: Special-Status Plant Species</p> <p>A thorough floristic-based assessment of special status plants and natural communities, following CDFW's <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> (CDFW 2018 or most recent version) shall be performed by a qualified biologist at the appropriate time of year and prior to commencing Project activities. Should any special status plants or natural</p>	<p>Timing: Prior to commencing project activities and at the appropriate time(s) of year</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: City of Palm Springs</p>

<p>communities be present in the Project area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site. If successful transplantation of perennial species is determined by a qualified restoration specialist, a receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from special status annual plant species to a natural site as a conservation strategy to minimize Project impacts.</p>		
<p>CDFW recommends that the City include in a revised MND Mitigation Measure BIO-[Z]:</p> <p>Mitigation Measure BIO-[Z]: CVMSHCP Compliance</p> <p>Prior to construction and issuance of any grading permit, the City of Palm Springs shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee.</p>	<p>Timing: Prior to construction and issuance of any grading permit</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: City of Palm Springs</p>