



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
 3602 Inland Empire Boulevard, Suite C-220
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 17, 2023
 Sent via email

Governor's Office of Planning & Research

Ryan Leonard
 Senior Planner
 City of Hesperia
 9700 Seventh Avenue
 Hesperia, CA 92345

Jul 17 2023

STATE CLEARINGHOUSE

Mesa Linda Logistics Center (PROJECT)
 DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
 SCH# 2022090381

Dear Mr. Leonard:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from City of Hesperia (Lead Agency) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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

CDFW ROLE

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Hesperia Planning Department

Objective: The Project proposes to construct a new 408,997 square foot warehouse building on 18.16-acres of undeveloped Western Joshua Tree habitat. This Project includes removal of vegetation, installation of onsite water lines and an onsite sewer system, new storm drain lines that would convey drainage flows to proposed above ground and underground infiltration basins, street improvements including installation of curb, gutter, and sidewalks, and landscaping along the perimeter of the warehouse.

Location: Northwest of Poplar Street and Mesa Linda Street intersection in the City of Hesperia. Specifically located within Section 22, Township 4 North, Range 5 West, San Bernardino Base and Meridian (SBB&M) of the Baldy Mesa United States Geological Survey (USGS) 7.5-minute topographic quadrangle.

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 2

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Hesperia in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Desert Native Plants and Rare Plant Survey

The DEIR includes the results of a 2022 Desert Native Plant and Rare Plant Survey conducted on May 15, 2022. The survey report indicates on page 8, "Due to extremely dry conditions in 2022, spring and summer blooming annuals and cryptic perennials were not detectable". MM BIO-5, identifies the plan to relocate desert native plants. However, CDFW is concerned the field survey did not adequately identify a species list of all plant species found on site potentially impacted due to the project. CDFW's Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018) recommends conducting botanical field surveys in the field at times of year when plants will be both evident and identifiable, which is during flowering and fruiting.

CDFW recommends that new surveys be conducted by CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with plants of the area, including special status plants and locally significant plants, and familiar with the appropriate state and federal statuses of plant collecting. Botanical field surveys should be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. It is also recommended that multiple site visits to the Project area be conducted in the early, mid, and late seasons to capture the floristic diversity at a level necessary to determine if special status plants are present. Additionally, the DEIR should identify specific measures for impacts rare plants.

Following the 2018 CDFW Protocol, the DEIR should include an assessment from project related impacts, such as:

- A discussion of the significance of special status plant populations in the project area considering nearby populations and total range and distribution;
- A discussion of the significance of sensitive natural communities in the project area considering nearby occurrences and natural community distribution;
- A discussion of project related direct, indirect, and cumulative impacts to special status plants and sensitive natural communities;
- A discussion of the degree and immediacy of all threats to special status plants and sensitive natural communities, including those from invasive species;
- A discussion of the degree and impact, if any, of the project on unoccupied, potential habitat for special status plants; and
- Recommended measures to avoid, minimize, or mitigate impacts to special status plants and sensitive natural communities.

CDFW recommends that Mitigation Measure BIO-5 be revised to state the following (edits are in strikethrough and bold for additions):

MM BIO-5

A plant survey shall be completed prior to any ground disturbance on the site. If any of the eight special status plant species known to occur in the Project area are found on site during the surveys, the population size of the species and importance to the overall population should be determined. If a rare plant species occurs on the site and cannot be avoided, it should be transplanted and/or have seeds/topsoil collected. Prior to the issuance of grading permits, the Project Applicant shall submit an application and applicable fee paid to the City of Hesperia for removal or relocation of protected native desert plants under Hesperia Municipal Code Chapter 16.24 as required and schedule a preconstruction site inspection with the Planning Division and the Building Division. The application shall include certification from a qualified Joshua tree and

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 3

native desert plant expert(s) to determine that proposed removal or relocation of protected native desert plants are appropriate, supportive of a healthy environment, and in compliance with the City of Hesperia Municipal Code. Protected plants subject to Hesperia Municipal Code Chapter 16.24 may be relocated onsite, or within an area designated as an area for species to be adopted later. The application shall include a detailed plan for the removal of all protected plants on the Project site. The plan shall be prepared by a qualified Joshua tree and native desert plant expert(s). The plan shall include, but not be limited to, the following measures:

- Salvaged plants shall be transplanted expeditiously to either their final on-site location, or to an approved off-site area. If the plants cannot be expeditiously taken to their permanent relocation area at the time of excavation, they may be transplanted in a temporary area (stockpiled) prior to being moved to their permanent relocation site(s).
- ~~Western Joshua trees shall be marked on their north facing side prior to excavation. Transplanted western Joshua trees shall be planted in the same orientation as they currently occur on the Project site, with the marking on the north side of the trees facing north at the relocation site(s).~~
- Transplanted plants shall be watered prior to and at the time of transplantation. The schedule of watering shall be determined by the qualified tree expert and desert native plant expert(s) to maintain plant health. Watering of the transplanted plants shall continue under the guidance of qualified tree expert and desert native plant expert(s) until it has been determined that the transplants have become established in the permanent relocation site(s) and no longer require supplemental watering.

Western Joshua Tree (Yucca brevifolia)

Project activities are expected to result in the removal of western Joshua tree (WJT) individuals, a candidate species under CESA, and in the permanent loss of WJT habitat. The Project has the potential for take of WJT individuals and associated seedbank through the removal of individuals and roots; clearing vegetation; general operation of vehicles and heavy equipment; grading; staging equipment and stockpiling. Incidental take of WJT individuals in the form of mortality (“kill”) may occur as a result of removing mature and emergent individuals; relocating individuals; eliminating and modifying habitat; removing seedbank and crushing and/or burying living seeds in the soil, rendering living seeds inviable and/or causing them to be killed.

WJT is a candidate threatened species under CESA. Under CESA, species classified as a candidate species are afforded the same protection as CESA listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill”.

Avoidance of WJT is not feasible and translocation is proposed in the DEIR. Please note that CDFW generally does not support the use of salvaging, translocation, or transplantation as a mitigation strategy for unavoidable impacts to WJT. As such, CDFW encourages the City to obtain a CESA Incidental Take Permit (ITP) for WJT to fully mitigate impacts to WJT, as per biological (BIO) mitigation measure (MM)-6 below. If the Project Applicant is unable to avoid impacts to WJT within a 300-ft buffer, the Project Applicant should also obtain take authorization for those WJT. Please visit CDFW’s [Incidental Take Permits \(ca.gov\)](https://www.cdfw.ca.gov/Incidental-Take-Permits) webpage for more information regarding ITPs. Mitigation. CDFW supports the inclusion of MM BIO-6 in the DEIR, as per below to mitigate impacts to WJT (edits are in strikethrough and additions are in bold):

MM BIO-6

~~In the case that the California Fish and Game Commission lists western Joshua trees as threatened under the California Endangered Species Act, the following measure will be implemented:~~ **The western Joshua tree is a candidate threatened species under the California Endangered Species Act, and the following measures will be implemented:**

- Prior to the initiation of Joshua tree removal, obtain California Endangered Species Act (CESA) Incidental Take Permit under Section 2081 of the Fish and Game Code.

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 4

The Project Applicant will adhere to measures and conditions set forth within the Incidental Take Permit.

- Mitigation for direct impacts to western Joshua trees shall be fulfilled through conservation of western Joshua trees ~~at a 1:1~~ **through** habitat replacement ~~ratio~~, of equal or better functions and values to those impacted by the Project. Mitigation can be through purchases of credits at a California Department of Fish and Wildlife (CDFW)-approved mitigation bank for western Joshua tree. Additionally, no take of western Joshua tree will occur without authorization from CDFW in the form of an Incidental Take Permit pursuant to Fish and Game Code 2081.
- Name, qualifications, business address, and contact information of a biological monitor (designated botanist) shall be submitted to CDFW at least 30 days prior to Project activities. The designated botanist shall be responsible for monitoring Project activities to help minimize and fully mitigate or avoid incidental take of Joshua trees.
- An education program (Worker Environmental Awareness Program) shall be conducted for all persons employed or working in the project area before performing any work.
- A trash abatement program shall be in place before starting project activities and throughout the duration of the Project to ensure that trash and food are contained in animal proof containers.
- The boundaries of the Project site shall be clearly delineated, in consultation with the designated botanist, prior to project activities with posted signs, posting stakes, flags, and/or rope or cord.
- Project-related personnel shall access the Project area using existing routes, or routes identified in the Project description, and shall not cross **western** Joshua tree habitat outside or on route to the Project area.
- The designated botanist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid unauthorized take of an individual Joshua tree.
- The Project analyzed impacts to western Joshua trees by applying the 186-foot and 36-foot buffer zone overlap with the project boundaries of two adjacent proposed developments. Any impacts to overlapping Joshua trees will be analyzed by CDFW ~~to ensure no Joshua trees are mitigated twice.~~
- The Western Joshua Tree Conservation Act is currently under consideration by the California Governor's Office. In the event that the Western Joshua Tree Conservation Act is implemented, effectively replacing the function of species protection under CESA, alternative habitat replacement mechanisms, providing equal or better function and value to existing mechanisms under CESA, will be implemented as required under state law.

Burrowing Owl (*Athene cunicularia*)

The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl. 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. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill."

CDFW appreciates that the City will follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012); available for download from CDFW's website:

<https://www.wildlife.ca.gov/conservation/survey-protocols>. The Staff Report on Burrowing Owl Mitigation, specifies three steps for project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

CDFW appreciates the inclusion of MM BIO-1 which considers pre-construction surveys for burrowing owl, however, CDFW is concerned that according to the 2012 Staff Report on Burrowing Owl Mitigation, Take avoidance (pre-construction) surveys are intended to detect the presence of burrowing owls on a project site at a fixed period in time. The DEIR does not include the necessary survey documentation to assess project

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 5

impacts to burrowing owl. According to the 2012 Staff Report on Burrowing Owl there are three progressive steps in evaluating whether projects will result in impacts to burrowing owl. The information gained from these steps will inform any subsequent avoidance, minimization and mitigation measures. The steps for project impact evaluations are: 1) habitat assessment, 2) surveys, and 3) impact assessment. 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 FGC 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

If burrowing owls are found to occupy the Project site and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 2 artificial burrow constructed to 1 natural burrow collapsed (2:1) as minimization for the potentially significant impact of evicting burrowing owls. Burrowing owls may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect burrowing owls if they return. CDFW also recommends that when temporary or permanent burrow exclusion and/or burrow closure is implemented, burrowing owls should not be excluded from burrows unless or until a Burrowing Owl Exclusion Plan is developed and approved by CDFW; permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the Staff Report; site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided; and excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site.

If burrowing owls are found to occupy the Project site and avoidance is not possible, CDFW recommends mitigation for permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. CDFW recommends permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

CDFW offers the following revisions to MM-BIO-1 (edits are in strikethrough and bold).

MM BIO-1

~~A preconstruction survey for resident burrowing owls shall be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities to ensure that no owls have colonized the site in the days or weeks preceding project activities. If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the preconstruction survey, the area shall be resurveyed for owls. The preconstruction survey and any relocation activity shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012).~~

~~If active nests are identified on an implementing project site during the preconstruction survey, the nests shall be avoided, or the owls actively or passively relocated. To adequately avoid active nests, no grading or heavy equipment activity shall take place within at least 250 feet of an active nest during the breeding season (February 1 through August 31), and 160 feet during the non-breeding season. Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas~~

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 6

found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012). The burrow survey can be conducted any time, but the breeding season focused survey cannot begin prior to February 1. Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

If burrowing owls occupy any implementing portion of the Project site and cannot be avoided, active or passive relocation shall be used to exclude owls from their burrows, as agreed to by the City of Hesperia Planning Department and the CDFW. Relocation shall be conducted outside the breeding season or once the young are able to leave the nest and fly. ~~Passive relocation is the exclusion of owls from their burrows (outside the breeding season or once the young are able to leave the nest and fly) by installing one-way doors in burrow entrances. These one-way doors allow the owl to exit the burrow, but not enter it. These doors shall be left in place 48 hours to ensure owls have left the burrow. Artificial burrows shall be provided nearby. The implementing project area shall be monitored daily for one week to confirm owl use of burrows before excavating burrows in the impact area. Burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible pipe shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. The CDFW shall be consulted prior to any active relocation to determine acceptable receiving sites available where this species has a greater chance of successful long-term relocation. If avoidance is infeasible, then a Determination of Biologically Equivalent or Superior Preservation (DBESP) Report shall be required, including associated relocation of burrowing owls. If conservation is not required, then owl relocation shall still be required following accepted protocols. Take of active nests shall be avoided, so it is strongly recommended that any relocation occur outside of the nesting season.~~

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>.

Ryan Leonard, Senior Planner
City of Hesperia Planning Department
July 14, 2023
Page 7

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.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on biological resources and we request that the City address the Department's comments and concerns prior to adoption of the DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Marlee Poff (760) 338-8942 or at Marlee.Poff@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Jeff Brandt

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For Alisa Ellsworth
Environmental Program Manager

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 8

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

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

TABLE OF MITIGATION MEASURES

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

Biological (BIO) Mitigation Measure	Implementation Schedule	Responsible Party
<p>Biological Resources Mitigation Measure No. 1</p> <p>A survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012). The burrow survey can be conducted any time, but the breeding season focused survey cannot begin prior to February 1. Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.</p> <p>If burrowing owls occupy any implementing portion of the Project site and cannot be avoided, active or passive relocation shall be used to exclude owls from their burrows, as agreed to by the City of Hesperia Planning Department and the CDFW. Relocation shall be conducted outside the breeding season or once the young are able to leave the nest and fly. Burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible pipe shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. The CDFW shall be consulted prior to any active relocation to determine</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 9

<p>acceptable receiving sites available where this species has a greater chance of successful long-term relocation.</p>		
<p>Biological Resources Mitigation Measure No. 2</p> <p>Coastal whiptail (<i>Aspidoscelis tigris stejnegeri</i>) and coast horned lizard (<i>Phrynosoma blainvillii</i>) have the potential to exist on the Project site and the potential to be impacted by construction activities. A qualified biological monitor shall be present on site during all ground disturbing activities to ensure no direct or indirect take of the species occurs.</p> <p>A qualified biologist shall conduct pre-construction sweeps within the Project area (including access routes) and a 500-foot buffer surrounding the Project areas, within 2 hours of initiating Project activities. The pre-construction sweeps shall confirm and mark/map for avoidance the location of any special-status species such as desert tortoise and shall verify that no additional special-status species have occupied the Project areas or adjacent habitats. If any additional special-status species (or sign of presence) are identified within or adjacent to the project areas during the pre-construction sweep, the qualified biologist shall determine whether the proposed avoidance measures will be effective in fully avoiding impacts of the project on the identified resource(s) prior to initiating Project activities. If full avoidance cannot be accomplished, Permittee shall postpone the Project, and contact CDFW to discuss an appropriate action.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>Biological Resources Mitigation Measure No. 5</p> <p>A plant survey shall be completed prior to any ground disturbance on the site. If any of the eight special status plant species known to occur in the Project area are found on site during the surveys, the population size of the species and importance to the overall population should be determined. If a rare plant species occurs on the site and cannot be avoided, it should be transplanted and/or have seeds/topsoil collected. Prior to the issuance of grading permits, the Project Applicant shall submit an application and applicable fee paid to the City of Hesperia for removal or relocation of protected native desert plants under Hesperia Municipal Code Chapter 16.24 as required and schedule a preconstruction site inspection with the Planning Division and the Building Division. The application shall include certification from a qualified Joshua tree and native desert plant expert(s) to determine that proposed removal or relocation of protected native desert plants are appropriate, supportive of a healthy environment, and in compliance with the City of Hesperia Municipal Code. Protected plants subject to Hesperia Municipal Code Chapter 16.24 may be relocated onsite, or within an area designated as an area for species to be adopted later. The application shall include a detailed plan for the removal of all protected plants on the Project site. The plan shall be prepared by a qualified Joshua tree and native desert plant expert(s). The plan shall include, but not be limited to, the following measures:</p> <ul style="list-style-type: none"> • Salvaged plants shall be transplanted expeditiously to either their final on-site location, or 	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Ryan Leonard, Senior Planner
 City of Hesperia Planning Department
 July 14, 2023
 Page 10

<p>to an approved off-site area. If the plants cannot be expeditiously taken to their permanent relocation area at the time of excavation, they may be transplanted in a temporary area (stockpiled) prior to being moved to their permanent relocation site(s).</p> <ul style="list-style-type: none"> • Western Joshua trees shall be marked on their north facing side prior to excavation. Transplanted western Joshua trees shall be planted in the same orientation as they currently occur on the Project site, with the marking on the north side of the trees facing north at the relocation site(s). • Transplanted plants shall be watered prior to and at the time of transplantation. The schedule of watering shall be determined by the qualified tree expert and desert native plant expert(s) to maintain plant health. Watering of the transplanted plants shall continue under the guidance of qualified tree expert and desert native plant expert(s) until it has been determined that the transplants have become established in the permanent relocation site(s) and no longer require supplemental watering. 		
<p>Biological Resources Mitigation Measure No. 6</p> <p>The western Joshua tree is a candidate threatened species under the California Endangered Species Act, and the following measures will be implemented:</p> <ul style="list-style-type: none"> • Prior to the initiation of Joshua tree removal, obtain California Endangered Species Act (CESA) Incidental Take Permit under Section 2081 of the Fish and Game Code. The Project Applicant will adhere to measures and conditions set forth within the Incidental Take Permit. • Mitigation for direct impacts to western Joshua trees shall be fulfilled through conservation of western Joshua trees through habitat replacement, of equal or better functions and values to those impacted by the Project. Mitigation can be through purchases of credits at a California Department of Fish and Wildlife (CDFW)-approved mitigation bank for western Joshua tree. Additionally, no take of western Joshua tree will occur without authorization from CDFW in the form of an Incidental Take Permit pursuant to Fish and Game Code 2081. • Name, qualifications, business address, and contact information of a biological monitor (designated botanist) shall be submitted to CDFW at least 30 days prior to Project activities. The designated botanist shall be responsible for monitoring Project activities to help minimize and fully mitigate or avoid incidental take of Joshua trees. • An education program (Worker Environmental Awareness Program) shall be conducted for all persons employed or working in the project area before performing any work. • A trash abatement program shall be in place before starting project activities and throughout the 	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Ryan Leonard, Senior Planner
City of Hesperia Planning Department
July 14, 2023
Page 11

<p>duration of the Project to ensure that trash and food are contained in animal proof containers.</p> <ul style="list-style-type: none">• The boundaries of the Project site shall be clearly delineated, in consultation with the designated botanist, prior to project activities with posted signs, posting stakes, flags, and/or rope or cord.• Project-related personnel shall access the Project area using existing routes, or routes identified in the Project description, and shall not cross western Joshua tree habitat outside or on route to the Project area.• The designated botanist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid unauthorized take of an individual Joshua tree.• The Project analyzed impacts to western Joshua trees by applying the 186-foot and 36-foot buffer zone overlap with the project boundaries of two adjacent proposed developments. Any impacts to overlapping Joshua trees will be analyzed by.• The Western Joshua Tree Conservation Act is currently under consideration by the California Governor's Office. In the event that the Western Joshua Tree Conservation Act is implemented, effectively replacing the function of species protection under CESA, alternative habitat replacement mechanisms, providing equal or better function and value to existing mechanisms under CESA, will be implemented as required under state law.		
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