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

November 21, 2022
Sent via email

Jon Berg
Community Development Director
City of Indian Wells
44-950 El Dorado Drive
Indian Wells, CA 92210

Indian Wells Tennis Gardens Parking Lot and Sod Farm Expansion (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2022110009

Dear Mr. Berg:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Indian Wells for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines[1].

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

CDFW ROLE

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

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

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.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Garden of Champions, LLC

Objective: The Project proposes to develop a sod grass parking lot for additional parking for the Indian Wells Tennis Gardens (IWTG). The project will be an expansion of the existing IWTG sod grass parking lot facilities immediately to the east. The project will operate as a year-round sod farm with seasonal event parking. The project will provide paved ingress/egress roads, sidewalks, signage, and ride share drop-off/pick-up facilities, located along the project frontage on Miles Avenue. The project site occupies approximately 17 acres south of Miles Avenue and approximately 0.30 miles west of Washington Street in the City of Indian Wells. The Whitewater River is located south and directly adjacent to the Project site.

Location: The Project site occupies approximately 17 acres south of Miles Avenue and approximately 0.30 miles west of Washington Street in the City of Indian Wells, Riverside County, California. The Project site is located within Assessor's Parcel Number (APN) 604-640-015.

Timeframe: The MND does not include information on a timeframe.

COMMENTS AND RECOMMENDATIONS

CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. CDFW is concerned that there is insufficient information in the MND for CDFW to conduct a meaningful review of impacts to biological resources. The MND lacks an accurate description of baseline physical conditions of the Project site; therefore, the MND lacks considerations of the significance of impacts to any special-status plant and animal species that may occupy the site. Without accurate information on baseline physical conditions, CDFW is unable to assess the changes the Project may have on baseline conditions and if these changes are significant. Without this information, CDFW is also unable to provide input on the appropriateness of avoidance, minimization, and mitigation measures. Also, the MND does not discuss the

Project's potential indirect impacts to biological resources within the Whitewater River, located adjacent to the Project site.

CDFW recommends that the MND is revised to include a complete assessment and analysis of impacts to biological resources. CDFW also recommends that additional avoidance and minimization measures are added to a revised MND to protect burrowing owls, other nesting birds, and other biological resources both within the Project site and within the adjacent Whitewater River.

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

1) Assessment and Analysis of Impacts to Biological Resources

The MND indicates that that the Project site (APN 604-640-015) has been rough graded and stabilized with sod grass. The MND also indicates that the Project site contains no known significant biological resources (pp. 2, 21). The MND does not indicate if a field assessment or any other biological surveys were conducted at the Project site. Aerial imagery from November 2022 and street-level photos accessed via Google Earth Pro indicate that the Project site is not stabilized with sod grass but contains a sparce cover (typical of desert habitats) of vegetation including native plants like creosote bush (*Larrea tridentata*). The California Natural Diversity Database (CNDDB) indicates historical observations of a number of special-status species within a one-mile radius of the Project site, including, but not limited to, cottonheads (*Nemacaulis denudate* var. *gracilis;* California Rare Plant Rank 2B.2), desert sand-verbena (*Abronia villosa* var. *aurita;* California Rare Plan Rank 1B.1), and Coachella Valley milkvetch (*Astragalus lentiginosus* var. *coachellae;* CVMSHCP Covered Species).

Without accurate information on baseline physical condition of the Project site, CDFW is unable to conduct a meaningful review of the Project's impacts on biological resources. Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the project, 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 sensitive species and their associated habitats.

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[2]). 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 (CNDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDB@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.

   Please note that CDFW's CNDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the project site.

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 & G. 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 qualified 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.

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[2] Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California. http://vegetation.cnps.org/

If the City of Indian Wells forgoes the recommended complete inventory of biological resources and analysis and disclosure of these potential resource impacts in a revised MND, CDFW recommends that the following mitigation measure is added to a revised MND:

Mitigation Measure [A]: Assessment of Biological Resources

> **Prior to construction or issuance of a grading permit, the Project applicant will submit to the City and CDFW the results of an assessment of biological resources as described below:**
>
> **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 shall address seasonal variations in use of the Project area and shall 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.**
>
> **If any rare, threatened, endangered, and other sensitive species are observed within the Project footprint, the Project applicant will prepare a report for review and approval by the City of Indian Wells and CDFW detailing both actions to avoid and minimize impacts to the species and, for species not covered by the CVMSHCP, a mitigation strategy for all unavoidable impacts to these species that reduces Project impacts to a level that is less than significant.**

2) Burrowing owls

The MND does not discuss if the Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl (*Athene cunicularia;* California Species of Special Concern and CVMSHCP Covered Species). Burrowing owls have been identified in the Whitewater River upstream and downstream of the Project site, and suitable burrowing owl foraging and/or nesting habitat may exist within the Project site or adjacent to the Project site in the Whitewater River.

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 recommends that the City of Indian Wells follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012[3]). The *Staff Report on Burrowing Owl Mitigation*, specifies three steps for project impact evaluations:

- A habitat assessment;
- Surveys; and
- An impact assessment

As stated in the *Staff Report on Burrowing Owl Mitigation*, 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, minimization, and mitigation 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 or non-CEQA project.

CDFW recommends that the MND is revised to include the findings of a burrowing owl habitat assessment, focused surveys, and an impact assessment. If occupied burrows are located within or near the Project site, including the Whitewater River located to the south of the Project site, avoidance and minimization measures need to be identified in the MND to support the Project applicant in avoiding the unlawful take of burrowing owls and their nests and eggs.

CDFW recommends that the following mitigation measure is added to a revised MND:

Mitigation Measure BIO-[B]: Burrowing Owls

[3] California Department of Fish and Game (CDFG). 2012. Staff report of burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: http://www.dfq.ca.qov/wildlife/nonqame/survevmonitor.html

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* (California 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, monitoring, relocation, and minimization. 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 the avoidance and minimization 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. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. 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.

3) Nesting Birds

The MND indicates that the Project site contains no known significant biological resources (pp. 2, 21). Aerial imagery from November 2022 and street-level photos accessed via Google Earth Pro indicate that the Project site contains sparse cover of shrubs and trees including, but not limited to, creosote bush (*Larrea tridentata*). Many bird species nest in trees and shrubs, while some birds nest on the ground like killdeer (*Charadrius vociferus*) and others nest in burrows (burrowing owl). Project activities include grading the Project site, which may impact nesting birds.

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.).

To support the Project applicant in avoiding the illegal take of nests, eggs, and nesting birds, CDFW recommends that the following mitigation measure is added to a revised MND:

Mitigation Measures BIO-[C]: Nesting Birds

> **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.

4) Artificial Nighttime Lightning

The MND indicates that the Project site is located directly adjacent to the Whitewater River, and that Project activities include outdoor lightning plan including both permanent tennis stadium lightning mounted on 90-feet tall steel poles and temporary portable lightning up to 25-feet high for special event parking (pp. 12-13). The MND also indicates that light fixtures will be downward-orientated and may incorporate motion sensors. Examples of lightning fixtures that may be used were also provided.

MND lacks an analysis of direct and indirect impacts that artificial nighttime lightning may have on biological resources located within the Whitewater River. The section of the Whitewater River located adjacent to the Project site contains sparce cover of vegetation cover that may support nesting birds. This section of the Whitewater River may also have suitable burrowing owl nesting habitat. The Whitewater River also serves as an important biological corridor for wildlife. Available research indicates that artificial nighttime lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; and the detection of resources and natural enemies and navigation[4]. Further, many of the effects of artificial nighttime lightning on population or ecosystem-level processes are still poorly known.

Artificial nighttime lightning within or near the Whitewater River should be avoided completely or minimized by fully shielding all light sources, directing light away from natural areas, reducing light intensity, and lowering the height of all lightning sources, among other strategies to minimize the negative impacts of nighttime lightning. CDFW recommends that the MND be updated to include a discussion of the direct and indirect impacts of artificial lighting expected to adversely affect biological resources in the Whitewater River, as well as migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife. In addition, appropriate avoidance and minimization measures should be included in the IS/MND.

Because of the potential for artificial nighttime lighting used during construction and during operation of the Project to adversely impact biological resources, CDFW

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[4] Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. *The ecological impacts of nighttime light pollution: a mechanistic appraisal*. Biological Reviews, 2013.

recommends that the City of Indian Wells add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[D]: Artificial Nighttime Lighting

> **During Project construction activities and long-term operations, the Project shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The height of lightning sources will also be minimized. Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.**

5) CVMSHCP Implementation

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, the Permittees need to demonstrate that proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. Among other obligations under the CVMSHCP, the City of Indian Wells is required to collect Local Development Mitigation Fees and transmit them to the Coachella Valley Conservation Commission. CDFW recommends that the City of Indian Wells add the following mitigation measures to a revised MND:

Mitigation Measure BIO-[E]: CVMSHCP Compliance

> **Prior to construction and issuance of any grading permit, the City of Indian Wells 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 (CNDDB). The CNNDB field survey form can be filled out and submitted

online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 Indian Wells in identifying and mitigating Project impacts to biological resources. CDFW recommends that a complete assessment of biological resources be completed for the Project to identify baseline biological conditions, including the presence of any special-status species; to assess if the Project will make significant changes to these baseline conditions; and to inform appropriate avoidance, minimization, and mitigation measures. CDFW also recommends that additional avoidance and minimization measures are added to a revised MND to protect burrowing owls, other nesting birds, and other biological resources both within the Project site and within the adjacent Whitewater River. 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:
Kim Freeburn
84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

ec:

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	**Timing and Methods**	**Responsible Parties**
CDFW recommends that the following mitigation measure is added to a revised MND: **Mitigation Measure [A]: Assessment of Biological Resources** **Prior to construction or issuance of a grading permit, the Project applicant will submit to the City and CDFW the results of an assessment of biological resources as described below:** **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 shall address seasonal variations in use of the Project area and shall 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.** **If any rare, threatened, endangered, and other sensitive species are observed within the Project footprint, the Project applicant will prepare a report for review and approval by the City of Indian Wells and CDFW detailing both actions to avoid and minimize impacts to the species and, for species not covered by the CVMSHCP, a mitigation strategy for all unavoidable impacts to these species that**	**Timing**: Prior to construction and issuance of any grading permit **Methods:** See Mitigation Measure	**Implementation:** City of Indian Wells **Monitoring and Reporting:** City of Indian Wells

reduces Project impacts to a level that is less than significant.		
CDFW recommends that the following mitigation measure is added to a revised MND: **Mitigation Measure BIO-[B]: Burrowing Owls** **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 (California 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, monitoring, relocation, and minimization. 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 the avoidance and minimization 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**	**Timing**: No less than 60 days prior to the start of Project activities for the habitat assessment; no less than 14 days prior to the start of Project activities and within 24 hours prior to ground for preconstruction surveys. **Methods:** See Mitigation Measure	**Implementation:** Project applicant **Monitoring and Reporting:** City of Indian Wells

suitable habitat available to owls along with proposed relocation actions. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. 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.**		
CDFW recommends that the following mitigation measure is added to a revised MND: **Mitigation Measures BIO-[C]: Nesting Birds** **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**	**Timing**: No more than three days prior to vegetation removal or ground disturbing activities. **Methods:** See Mitigation Measure	**Implementation:** Project applicant **Monitoring and Reporting:** City of Indian Wells

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.		
CDFW recommends that the City of Indian Wells add the following mitigation measure to a revised MND: **Mitigation Measure BIO-[D]: Artificial Nighttime Lighting** **During Project construction activities and long-term operations, the Project shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The height of lightning sources will also be minimized. Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.**	**Timing**: During project construction activities and long-term operations **Methods:** See Mitigation Measure	**Implementation:** Project applicant **Monitoring and Reporting:** City of Indian Wells

CDFW recommends that the City of Indian Wells add the following mitigation measure to a revised MND: **Mitigation Measure BIO-[E]: CVMSHCP Compliance** **Prior to construction and issuance of any grading permit, the City of Indian Wells 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.**		