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 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
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 Ontario, CA 91764  
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GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



June 6, 2023  
 Sent via email

Andrea Montano, Associate Planner  
 City of El Centro  
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**6TH STREET AND SPEAR AVENUE AFFORDABLE HOUSING PROJECT (PROJECT)  
 MITIGATED NEGATIVE DECLARATION (MND)  
 SCH#: 2023050170**

Dear Ms. Montano:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of El Centro (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

**CDFW ROLE**

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may 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:** Chelsea Investment Corporation

**Objective:** The Project will develop 288 units of affordable housing on approximately 12.90 acres on Assessor’s Parcel Number 053-740-040. The Project will occur in four phases with each phase containing 72 units in three buildings, a 2,133-square-foot community building, and 193-square-foot laundry facility for each phase. The Project will also include the development of 520 parking spaces for the entire Project, a stormwater retention basin along the western site boundary, and landscaping. The Project also

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

proposes subdivision of the property into parcels and a General Plan Amendment to change the existing zoning.

**Location:** The Project site is in the City of El Centro, Imperial County, California; Latitude 32.769703 N and Longitude -115.554223 W. The Project site is a vacant lot located south of Wake Avenue, east of 6th street, west of 4th street, and north of Spear Avenue. The Project site is bordered by both developed and graded vacant lots to the north and graded vacant lots immediately east and south.

**Timeframe:** Construction will occur in four phases. Construction of Phase I is expected to begin in early 2024 and be completed by late 2025. Phase II is expected to begin based on market demand.

## **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). CDFW offers the comments and recommendations below to further assist the City of El Centro in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts to 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's comments and recommendations on the MND are explained in greater detail below and summarized here.

### Existing Environmental Setting

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting has not been adequately analyzed in the MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND may provide an incomplete analysis of Project-related environmental impacts.

The MND bases its analysis of impacts to biological resources on the field assessment conducted on November 15, 2022, as described in Appendix B. The IS/MND (p. 28) reports that no special-status plants were observed on the Project site; however, the field assessment was not conducted at the right time of year to detect special-status plants. Similarly, the IS/MND (p. 28) indicates that burrowing owl (*Athene cunicularia*) was "determined to have a potential to occur in the survey area," but no focused surveys were conducted for this species. CDFW is concerned that the field assessment was not sufficient in timing and scope to determine the presence of special-status species on the Project site.

### Mitigation Measures

CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to less than significant. To support the City of El Centro in ensuring that Project impacts to biological resources are reduced to a level that is less than significant, CDFW recommends revising the mitigation measures for burrowing owl (*Athene cunicularia*) and nesting birds, as well as adding a mitigation measure for artificial nighttime lightning.

## **I. Project Description and Related Impact Shortcoming**

### **COMMENT #1: Timeframe of Project Activities**

#### **Initial Study/Mitigated Negative Declaration (IS/MND) document, Page 7**

**Issue:** The MND has not disclosed the timing of the four construction phases or analyzed impacts to biological resources associated with the timing of Project activities.

**Specific impact:** The MND (p. 7) indicates that construction will occur in four phases, with Phase I expected to begin in early 2024 and be completed in 18 months. Construction of Phase II is expected to be timed according to market demand. The timing of Phases III and

IV are not mentioned. In the interim period between construction of each phase, environmental conditions may change. The MND does not analyze impacts to biological resources associated with the timing of Project activities. Grading and leaving a site inactive may result in the area becoming occupied by wildlife that utilize disturbed areas (e.g., ground squirrels and burrowing owl).

**Evidence impact would be significant:** CEQA is predicated on a complete and accurate description of the proposed Project. Without a complete and accurate project description, the MND likely provides an incomplete assessment of Project-related impacts to biological resources. CDFW has identified gaps in information related to the project description.

**CDFW recommendation:** The MND should include the timing of Project activities. The MND should also analyze impacts to biological resources resulting from an extended timeline for Project activities and pauses in construction. The MND should acknowledge that surveys for biological resources will need to be repeated prior Project activities and after pauses in construction to assess the presence of biological resources and to avoid or reduce impacts to less than significant. The MND should acknowledge that wildlife may move into disturbed or graded sites when construction is paused. Analysis and appropriate mitigation measures to avoid and reduce impacts to biological resources resulting from the timing of construction for the Project should be included in a revised MND.

## **COMMENT #2 Landscaping**

### **IS/MND, Pages #13, 47**

**Issue:** The MND lacks a description of the type of landscaping that will be installed and maintained over the life of the Project.

**Specific impact:** The IS/MND states (pp. 13, 47) that the Project site will include landscaping with native species. However, no further details are provided.

**Evidence impact would be significant:** CEQA is predicated on a complete and accurate description of the proposed Project. Without a complete and accurate project description, the MND likely provides an incomplete assessment of Project-related impacts to biological resources. CDFW has identified gaps in information related to the project description.

**CDFW recommendation:** To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in any Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at CALSCAPE: <https://calscape.org/>. Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: <https://saveourwater.com/>.

## **II. Mitigation Measure or Alternative and Related Impact Shortcoming**

### **COMMENT #3: Burrowing Owl (*Athene cunicularia*)**

#### **IS/MND, Section 4, Pages 27-30 and MM BIO-1**

**Issue:** CDFW is concerned that no focused surveys were conducted for burrowing owl and that MM BIO-1 is not sufficient to ensure that impacts to burrowing owl are mitigated to a level less than significant.

**Specific impact:** The Project site is within predicted habitat for burrowing owl, and multiple occurrences of burrowing owl have been recorded within one mile of the Project site according to the California Natural Diversity Database (CNDDDB 2023). The IS/MND (p.

28) indicates that burrowing owl has the potential to occur and could potentially utilize burrows in nearby canal or drain ditch banks adjacent to the Project site. Impacts to burrowing owl from the Project could include take of burrowing owls, their nests or eggs, or destroying nesting or foraging habitat and impacting burrowing owl populations through changes in vegetation via the destruction, conversion, or degradation of burrowing owl habitat.

**Why impact would occur:** Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to burrowing owl. Project construction may result in the disruption of natural burrowing owl breeding behavior and reduce reproductive capacity. Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 12.9 acres of burrowing owl habitat.

**Evidence impact would be significant:** 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.). 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.”

**Recommended potentially feasible mitigation measure to reduce impacts to less than significant:**

CDFW recommends that prior to commencing Project activities for all phases of Project construction, surveys for burrowing owl be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). Although the MND includes MM BIO-1, CDFW considers the measure to be insufficient in scope and timing to reduce impacts to a level less than significant. CDFW recommends the City of El Centro revise Mitigation Measure BIO-1 as follows, with additions in **bold** and removals in ~~strikethrough~~:

#### **MM BIO-1: Burrowing Owl Surveys**

**Suitable burrowing owl habitat has been confirmed on the site; therefore, 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, monitoring, and mitigation 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. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. 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 USFWS to conduct an impact assessment to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities.** ~~To avoid direct or indirect impacts to BUOW, surveys for this species should be conducted to determine if this species is present within the survey area. If BUOW is present, mitigation will be required. Minimization measures could include preconstruction surveys within 14 days and 24 hours of start of ground breaking activities and worker training.~~

~~1. If occupied burrows are found on site, the burrows shall be passively relocated by a qualified biologist outside of nesting season and an appropriate number of artificial burrows shall be installed. If possible, these burrows shall be installed as close as possible to the passively relocated burrows~~

~~2. If not in the active construction areas, the occupied burrows can be sheltered in place with appropriate materials~~

~~3. If occupied burrows are sheltered, a biological monitor shall monitor areas of active construction. This biologist will ensure that the project complies with these mitigation measures and will have the authority to halt activities if they are not in compliance. The biologist will inspect the construction areas periodically for the presence of BUOWs.~~

~~4. If work is stopped for longer than 14 days, area will be resurveyed prior to restart of construction.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for revised MM BIO-1 and 2, and CDFW-recommended MM-BIO [A] (see Attachment 1).

#### **COMMENT #4: Nesting Birds**

##### **IS/MND, Section 4, Page 28 and MM BIO-2**

**Issue:** CDFW is concerned that Mitigation Measure BIO-2 is not sufficient to ensure that potential impacts to nesting birds are mitigated to a level less than significant.

**Specific impact:** The IS/MND (p. 28) indicates the potential for nesting birds on the Project site and that ground-nesting species such as lesser nighthawk (*Chordeiles acutipennis*) and killdeer (*Charadrius vociferus*) could use the Project site. CDFW is concerned about impacts to nesting birds from ground-disturbing activities, vegetation removal, and construction.

**Why impact would occur:** Project implementation could result in the loss of nesting and/or foraging habitat for ground-nesting species on-site and in the vacant lots immediately adjacent to the Project site.

**Evidence impact would be significant:** One of the biggest threats to birds is habitat loss and the conversion of natural vegetation into commercial, residential, and industrial land uses. 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: Fish and Game Code 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.).

**Recommended potentially feasible mitigation measure to reduce impacts to less than significant:**

CDFW recommends the revised MND include specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but are not limited to, Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site be avoided **any time birds are nesting on-site**. CDFW recommends that prior to commencing Project activities for all phases of Project construction, preconstruction nesting bird surveys shall be performed within 3 days prior to Project activities to determine the presence and location of nesting birds. Although the MND includes Mitigation Measure BIO-2 for nesting birds, CDFW considers the measure to be insufficient in scope and timing to reduce impacts to a level less than significant. CDFW recommends the City of El Centro revise Mitigation Measure BIO-2 as follows, with additions in **bold** and removals in ~~strikethrough~~:

**MM BIO-2: Avoidance of Nesting Birds**

**Regardless of the time of year, 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.** ~~If construction is scheduled to begin during nesting season (February-August), a survey for nesting birds should be performed within 3-5 days of groundbreaking activities. Depending on the species found, appropriate buffer zones will be established by a qualified biologist. Buffer zones will be established for active nests and these nests will be monitored by qualified biologist until young have fledged. If work is stopped for longer than 7 days during nesting bird season, area will be resurveyed prior to restart of construction. It is recommended that construction foremen and workers and onsite employees be given worker training by a qualified biologist regarding nesting birds that would include the following:~~

- ~~• Description of birds covered under MBTA and likely to be found on project site;~~
- ~~• Biology;~~
- ~~• Regulations (CDFW/USFWS); and~~
- ~~• Notification procedures if bird (dead, alive, injured) is found on or near site.~~

~~A sign in should be obtained and the training materials and sign in sheet should be submitted to appropriate agency. A biologist should be consulted immediately if a dead or injured bird is found on site.~~

**COMMENT #5: Artificial Nighttime Light**

**Issue:** The MND does not analyze impacts to biological resources from artificial nighttime light and includes no mitigation measures to avoid or reduce impacts to a level less than significant.

**Specific impact:** The MND (p. 7) indicates that “lights may be used within the construction areas, notably the construction staging areas, to provide security for construction equipment and construction materials. Further, in the event that construction related activities occur during nighttime hours on the Project site, temporary, overhead artificial lighting would be provided to illuminate the work area.” However, impacts to biological resources are not analyzed and no mitigation measures are proposed. The direct and indirect impacts of artificial nighttime lighting on biological resources including migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife should be analyzed, and appropriate avoidance and minimization measures should be included in a revised MND.

**Evidence impact would be significant:** Artificial nighttime lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Artificial 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; the detection of resources and natural enemies; and navigation (Gatson et al. 2013). Many species use photoperiod cues for communication (e.g., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

**Recommended potentially feasible mitigation measure to reduce impacts to less than significant:**

Because of the potential for artificial nighttime light to negatively impact wildlife, CDFW recommends the MND include the following mitigation measure to ensure that impacts to wildlife are reduced to less than significant.

**MM BIO-[A]: Artificial Nighttime Light**

**During Project construction and operation, the City of El Centro 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. The City shall 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 City shall ensure use LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.**

**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

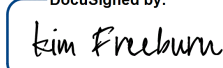
Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the City of El Centro in identifying and mitigating Project impacts on biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant impacts on biological resources. CDFW recommends that prior to adoption of the MND, the City of El Centro revise the document to include a more complete assessment of the Project's potential impacts on biological resources, as well as appropriate avoidance, minimization, and mitigation measures to reduce impacts to a level 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 Corina Jimenez, Environmental Scientist, at [Corina.Jimenez@wildlife.ca.gov](mailto:Corina.Jimenez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

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## REFERENCES

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- California Natural Diversity Database (CNDDB) Government [ds45]. 2023. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System.
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**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

| <b>Biological Resources (BIO)</b>   |   |                            |
|---|---|----------------------------|
| <b>Mitigation Measure (MM) Description</b>  | <b>Implementation Schedule</b>  | <b>Responsible Parties</b> |
| <p><b>MM BIO-1: Burrowing Owl Surveys</b><br/>           Suitable burrowing owl habitat has been confirmed on the site; therefore, 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, monitoring, and mitigation 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. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the "Mitigation Impacts" section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. 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.</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 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 USFWS to conduct an impact assessment to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities.</p> | <p><b>Focused surveys:</b> Prior to the start of Project-related activities.</p> <p><b>Pre-construction surveys:</b> No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p> | <p>City of El Centro</p>   |
| <p><b>MM BIO-2: Avoidance of Nesting Birds</b><br/>           Regardless of the time of year, 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</p>  | <p>No more than three (3) days prior to vegetation clearing or</p>  | <p>City of El Centro</p>   |

|  |  |                          |
|--|--|--------------------------|
| <p>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>ground-disturbing activities.</p>                         |                          |
| <p><b>MM BIO-[A]: Artificial Nighttime Light</b><br/>       During Project construction and operation, the City of El Centro 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. The City shall 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 <a href="http://darksky.org/">http://darksky.org/</a>). The City shall ensure use LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</p>   | <p>During Project construction activities and operation.</p> | <p>City of El Centro</p> |