



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Desert Region  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



June 20, 2023  
*Sent via email*

Sijifredo Fernandez  
Associate Planner  
City of La Quinta  
78495 Calle Tampico  
La Quinta, CA 92253

La Villetta at Avenue 58 Project (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2023060069

Dear Sijifredo Fernandez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of La Quinta (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.

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<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.

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:** Rodeo Credit Enterprises, LLC

**Objective:** The proposed Project involves a request for approval of a General Plan Amendment from Low Density up to 4 dwelling units per acre to Medium/High Density up to 12 dwelling units per acre, Zone Change from Low Density Residential to Medium/High Density, Tentative Tract Map, and Conditional Use Permit for Planned Unit Development to allow for the development of 80 single-family homes, a recreation area, an open space lot, and retention basin/open space on approximately 9.7 acres. The Project would consist of mainly two-story homes, along with three one-story plans along Avenue 58. The Project proposes a landscape plan within the Project site and along the frontage of the property. A total of 66,550 square feet of area will consist of hard and softscape materials. An additional 26,200 square feet of area in the detention basin will consist of ground cover. A total of 4,540 square feet of landscaping is proposed on the Avenue 58 landscape corridor along the frontage of the Project site. The landscape area includes a combination of trees, shrubs, and groundcover. A meandering multimodal trail is proposed within the landscape. Landscape and/or hardscape treatment is proposed along drive isles, parkways, residential courtyards, recreation building, pool and deck area, and play area. Access to the Project would be through two entrances from Avenue 58. The Project is required to prepare and have an approved Water Quality Management Plan that would demonstrate that there would not be any offsite surface water generated by the Project. The drainage plan, in conjunction with the Project Water Quality Management Plan, would retain and infiltrate all onsite stormwater runoff. The stormwater runoff from the site would be conveyed along private drives that would flow into a catch basin located on the site that would drain into a 26,200 square foot drainage basin where it would infiltrate into the ground. The utilities would be provided to the Project via underground connections from Avenue 58. Water service to the Project site would be provided by the Coachella Valley Water District through an existing 18-inch main water line along the northside of Avenue 58. An 8-inch water line would connect to the main water pipeline along Avenue 58, and 4-inch or smaller laterals would extend through the looped private road and drive areas to service all units. Sewer service to the Project site would be provided by the Coachella Valley Water District through an existing 33-inch sewer main line along Avenue 58. An 8-inch

sewer pipeline would connect to the main sewer pipeline along Avenue 58, and 4-inch to 6-inch laterals would extend through the looped private road and drive areas to service all units.

The entirety of the proposed developed area within the Project site would be disturbed during construction of the Project. The Grading Plan shows there is an estimated 2,070 cubic yards of cut and 32,159 cubic yards of fill. To balance the site and support the proposed residential development area, an estimated 30,089 cubic yards of select material is expected to be imported to the Project site. The construction staging and laydown areas would occur within the Project site. The Project site would be fenced during construction, and access would be for construction vehicles only. The number and types of equipment to be used would vary based on the stage of construction; however, typical construction equipment would be used (e.g., concrete/industrial saws, dozers, tractors/loaders/ backhoes, graders, excavators, cranes, forklifts, welders, cement and mortar mixers, pavers and paving equipment, rollers, and air compressors). The construction activities for the proposed Project would occur during the day. Therefore, no artificial nighttime construction lighting would be used.

**Location:** The proposed Project is located south of Avenue 58 between Madison Street and Monroe Street in the City of La Quinta, within Coachella Valley in north-central Riverside County. Assessor Parcel Numbers for the Project site are APNs 764-180-002 and 764-180-003.

**Timeframe:** The proposed Project is anticipated to start construction in 2024, with an estimated total construction period of 290 days.

## **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 assist City of La Quinta in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. CDFW is concerned that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the MND lacks sufficient information to facilitate a meaningful review by CDFW, including both a complete and accurate assessment of biological resources on the Project site. CDFW requests that additional information and analyses be added to a revised MND, along with avoidance,

minimization, and mitigation measures that avoid or reduce impacts to less than significant.

### Project Description

Compliance with 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.

The MND lacks a discussion of plans for artificial nighttime lighting. CDFW requests that the MND is revised to include plans for artificial nighttime lightning and lightning specifications. Artificial nighttime lighting can negatively impact biological resources in a variety of ways as discussed in the Artificial Nighttime Lightning section below. To conduct a meaningful review and provide biological expertise on how to protect fish and wildlife resources, CDFW requires a complete and accurate Project description.

### 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 lacks a recent assessment of biological resources within the Project site and surrounding area. A recent and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

### Mitigation Measures

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

#### **1) Assessment of Biological Resources**

Page 1 of the Project's Biological Technical Report, dated October 2021, indicates that biological surveys were conducted on September 22 and 27, 2021. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period. 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, that special emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed Project are adequately investigated and discussed. CDFW recommends that the MND is revised to include the findings of a complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project area 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). Based on findings from a recent biological inventory, CDFW recommends that the MND is revised to include an analysis of direct, indirect, and cumulative impacts to biological resources and identification of appropriate avoidance, minimization, and mitigation measures.

CDFW recommends that City of La Quinta add in a revised MND the following mitigation measure:

#### **Mitigation Measure BIO-[A]: Assessment of Biological Resources**

**Prior to Project construction activities, a complete and 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), will be completed. 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.**

#### **2) *Burrowing Owl***

Burrowing owl (*Athene cunicularia*) 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.”

Page 4.4-8 of the MND indicates that “burrowing owl has low to moderate potential to occur with the Project site. Although no suitable size burrows were observed within the Project site, the areas in the vicinity could provide suitable habitat.” Although the MND includes Mitigation Measure BIO-2 for burrowing owl, CDFW considers the measure to be inadequate in scope and timing to reduce impacts to less than significant. CDFW recommends that City of La Quinta revise Mitigation Measure BIO-2, with additions in **bold** and removals in ~~strikethrough~~:

#### **Mitigation Measure BIO-2: Burrowing Owl Avoidance**

**Suitable burrowing owl habitat has been confirmed on the Project site and surrounding area; therefore, focused burrowing owl surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version) prior to vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS 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 and USFWS for review and approval prior to commencing Project activities.** . A pre-construction/clearance burrowing owl survey shall be performed not more than 30 days prior to initial ground disturbance activity to map the location of suitable burrows, if any, and to formally determine presence/absence of the species. A qualified biologist will survey the Project site and a buffer zone, 500-foot outside the Project limits for burrows that could be used by burrowing owls. If the burrow is determined to be occupied, the burrow will be flagged, and a 160-foot diameter buffer will be established during nonbreeding season or a 250-foot diameter buffer during the breeding season. If burrows onsite are unoccupied, construction may proceed. If the site survey determines the presence of burrowing owl, mitigation in accordance with the CDFW shall be implemented as follows:

- If burrowing owls are identified as being resident onsite outside the breeding season (September 1 to February 14) they may be relocated to other sites by a permitted biologist (permitted by CDFW), as allowed in the CDFW Staff Report on Burrowing Owl Mitigation (March 2012).
- If an active burrow is found during the breeding season, the burrow shall be treated as a nest site and temporary fencing shall be installed at a distance from the active burrow, to be determined by the biologist, to prevent disturbance during grading or construction. Installation and removal of the fencing shall be done with a biological monitor present.
- Active relocation and eviction/passive relocation require the preservation and maintenance of suitable burrowing owl habitat determined through coordination with the Wildlife Agencies.

### **3) 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.).

Page 4.4-9 indicates that the Project site “has the potential to support various avian species and raptor nests due to the presence of a few shrubs, ground cover, date palm trees and other ornamental trees onsite.” The Project site contains, and is located adjacent to, areas with non-native palm trees. Birds like hooded oriole (*Icterus cucullatus*) primarily nest in palm trees and build hanging nests on the undersides of palm fronds.<sup>2</sup> Mourning doves (*Zenaida macroura*), owls, greater roadrunner (*Geococcyx californianus*), and house finch (*Haemorhous mexicanus*) frequently nest in the thick skirts of palms.<sup>3</sup>

The MND includes Mitigation Measure BIO-3, indicating that “any construction activities that occur during the nesting season (February 15 to August 31 for songbirds; January 15 to August 31 for raptors) will require that all suitable habitats be thoroughly surveyed for the presence of nesting birds.” CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site and surrounding area be avoided **any time birds are nesting on-site**. CDFW considers the Mitigation Measure BIO-3 to be insufficient in scope and timing to reduce impacts to nesting birds to less than significant.

CDFW recommends the City of La Quinta revise Mitigation Measure BIO-3, with additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-3: 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**

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<sup>2</sup> Garrett, K., and J. Dunn. 1981. Birds of southern California. Los Angeles Audubon Soc., Los Angeles.

<sup>3</sup> Cornett, J. W., How did palm oases get to the California desert? A behind-the-scenes look at these ‘tropical islands’. Desert Magazine. Sept. 13, 2018.



**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.** ~~Vegetation removal activities shall be conducted outside the nesting season (September 1 to February 14 for songbirds; September 1 to January 14 for raptors) to avoid potential impacts to nesting birds. Any construction activities that occur during the nesting season (February 15 to August 31 for songbirds; January 15 to August 31 for raptors) will require that all suitable habitats be thoroughly surveyed for the presence of nesting birds by a qualified biologist within three days before commencement of vegetation clearing/ground disturbance activities. If any active nests are detected, a buffer of 500 feet of an active listed species or raptor nest, 300 feet of other sensitive bird nests (non-listed), and 100 feet of most common songbird nests will be delineated, flagged, and avoided until the nesting cycle is complete. The buffer may be modified and/or other recommendations proposed as determined appropriate by the biological monitor to minimize impacts.~~

#### **4) Bats**

Page 4.4-13 of the MND indicates that “due to the potential for bat species, including the pocketed free-tailed and Western yellow bat [(*Lasiurus xanthinus*; Species of Special Concern, Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Covered Species)] to occur within the Project site and with the potential for these species to roost in untrimmed date palms, project construction could result in impacts to roosting bats.”

In California, western yellow bats appear to roost exclusively in the skirt of dead fronds of both native and non-native palm trees and appear to be limited in their distribution by availability of palm habitat.<sup>4</sup> Western yellow bats may form small maternity groups in palm trees.<sup>5</sup> Some individuals or populations may be migratory, although some individuals appear to be present year-round, even in the northernmost portion of the range including southern California. As indicated in the Project’s Tree Inventory Map

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<sup>4</sup> Bolster, B.C., Bolster, B.C., (ed.). 1998. Terrestrial Mammal Species of Special Concern in California. Draft Final Report. May. Sacramento, CA. Prepared by Paul W. Collins. Prepared for California Department of Fish and Game, Nongame Bird and Mammal Conservation Program, Sacramento, CA.

<sup>5</sup> Life History Account for Western Yellow Bat, California Department of Fish and Wildlife, February 2008.

(Figure 1 of the Biological Technical Report), the Project site includes more than 15 Mexican fan palms (*Washingtonia robusta*), many of which have partially untrimmed frond skirts that may support roosting habitat and maternity groups for western yellow bats. Date palms (*Phoenix dactylifera*) may also provide roosting habitat for western yellow bats and other bat species.

Removal of palm trees on-site that contain roosting habitat for bats can subject bats to impacts ranging from permanent loss of day roosts, including maternity roosts, to direct mortality if avoidance, minimization, and mitigation measures are not implemented. Artificial nighttime lighting may also negatively impact bats within open-space areas surrounding the Project site, and additional details on the Project's lighting plans and lighting specifications and appropriate avoidance, minimization, and mitigation measures are needed (see section below on Artificial Nighttime Lighting).

Although the MND contains Mitigation Measure BIO-4a regarding surveys for bats, CDFW considers Mitigation Measure BIO-4a to be insufficient in scope and timing to reduce impacts to bats to less than significant.

CDFW recommends that City of La Quinta revise Mitigation Measure BIO-4a, with additions in **bold** and removals in ~~strikethrough~~:

#### **Mitigation Measure BIO-4a: Surveys for Daytime, Nighttime, Wintering (Hibernacula), and Maternity Roosting Sites for Bats**

**Prior to the initiation of Project activities within suitable bat roosting habitat, City of La Quinta shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.**

**If active hibernacula or maternity roosts are identified in the work area or 500 feet extending from the work area during preconstruction surveys, for maternity roosts, Project activities will be initiated between October 1 and**

**February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed.**

**A minimum 500-foot no-work buffer shall be provided around hibernacula. The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until a qualified bat biologist determines that the hibernacula are no longer active. Within this buffer, Project-related activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of a hibernacula is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernacula and provide for construction of an alternative bat roost outside of the work area. A bat roost relocation plan shall be submitted for CDFW review prior to initiation of Project-related activities. The qualified biologist will implement the relocation plan and new roost sites shall be in place before the commencement of any ground-disturbing activities that will occur within 500 feet of the hibernacula. New roost sites shall be in place prior to the initiation of Project-related activities to allow enough time for bats to relocate. Removal of roosts will be guided by accepted exclusion and deterrent techniques. The City of La Quinta shall compensate no less than 2:1 for permanent impacts to roosting habitat.**

~~Prior to construction, all suitable areas within the Project site shall be surveyed for the presence of bat roosts by a qualified bat biologist. Initial surveys are recommended to be conducted between one year to six months prior to the initiation of vegetation removal and ground disturbing activities, ideally during the maternity season (typically March 1 to August 31), to allow time to prepare mitigation and/or exclusion plans if needed. Surveys may entail direct inspection of the trees or nighttime surveys. If active bat roosts are present, a qualified bat biologist shall determine the species of bats present and the type of roost (i.e., day roost, night roost, maternity roost). If the biologist determines that the roosting bats are not a special-status species and the roost is not being used as a maternity roost, then the bats may be evicted from the roost by a qualified bat biologist experienced in developing and implementing bat mitigation and exclusion plans.~~

- ~~• If special-status bat species or a maternity roost of any bat species is present, but no direct removal of active roosts will occur, a qualified bat biologist shall determine appropriate avoidance measures, which may include implementation of a construction-free buffer around the active roost.~~
- ~~• If special-status bat species or a maternity roost of any bat species is present and direct removal of habitat (roost location) will occur, then a qualified bat biologist experienced in developing bat mitigation and exclusion plans shall develop a mitigation plan to compensate for the lost roost site. Removal of the roost shall only occur when the mitigation plan has been approved by the City~~

~~and only when bats are not present in the roost. The mitigation plan shall detail the methods of excluding bats from the roost and the plans for a replacement roost in the vicinity of the Project site. The mitigation plan shall be submitted to the City for approval prior to implementation. The plan shall include: (1) a description of the species targeted for mitigation; (2) a description of the existing roost or roost sites; (3) methods to be used to exclude the bats if necessary; (4) methods to be used to secure the existing roost site to prevent its reuse prior to removal; (5) the location for a replacement roost structure; (6) design details for the construction of the replacement roost; (7) monitoring protocols for assessing replacement roost use; (8) a schedule for excluding bats, demolishing of the existing roost, and construction of the replacement roost; and (9) contingency measures to be implemented if the replacement roosts do not function as designed.~~

Additionally, although the MND contains Mitigation Measure BIO-4b and BIO-4c regarding the removal of trees that may provide roosting habitat for bats, CDFW considers these measures to be insufficient in scope and timing to reduce impacts to bats to less than significant.

CDFW recommends that City of La Quinta revise Mitigation Measures BIO-4b and BIO-4c, with additions in **bold** and removals in ~~strikethrough~~:

#### **Mitigation Measure BIO-4b: Avoidance of Bats during Tree Removal**

**Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree removals shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified**

**bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.** ~~BIO-4-b Pre-construction surveys shall be conducted by a qualified bat biologist no more than two weeks prior to the initiation of vegetation removal and ground disturbing activities. If no active roosts are present, then trees shall be removed within two weeks following the survey.~~

~~BIO-4c All potential roost trees (including palm trees) shall be removed in a manner approved by a qualified bat biologist outside the maternity season (March 15—August 31 in the Coachella Valley which coincides with the bird nesting season) to avoid the potential for “take” of nonvolant (flightless) young.~~

~~Trees and snags that have been identified as confirmed or potential roost sites require a two-step removal process and the involvement of a bat biologist to ensure that no roosting bats are killed during this activity. Consistent with CDFW protocols this two-step removal shall occur over two consecutive days as follows: on Day 1, branches and limbs not containing cavities, as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a bat biologist. The disturbance caused by limb removal, followed by an interval of one evening, will allow bats to safely abandon the roost.~~

### **5) Artificial Nighttime Lighting**

Goal LU-4 (page 4.1-7) indicates that the “Project lighting would be similar to the type and level of existing lighting provided in the Project area and it would comply with the Municipal code lighting requirements should ensure that all exterior lighting would be confined to the property to avoid spillover lighting impacts to adjoining properties.” The MND lacks details on the Project’s actual lighting plans and lighting specifications. CDFW requests that the MND is revised to include a discussion of the Project’s lightning plans and lightning specifications to be used over long-term operations of the Project to allow CDFW to conduct a meaningful review and provide expertise on activities that have the potential to adversely affect fish and wildlife resources.

Additionally, because the Project is located adjacent to open-space areas that may support western yellow bat, nesting birds, migratory birds that fly at night, and other nocturnal and crepuscular wildlife, CDFW recommends the MND is revised to include an analysis of the direct, indirect, and cumulative impacts of artificial nighttime lighting expected to adversely affect biological resources surrounding the Project site. In general, 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; the detection of resources and

natural predators; and navigation.<sup>6</sup> Further, many of the effects of artificial nighttime lighting on population- or ecosystem-level processes are still poorly understood suggesting that a precautionary approach should be taken when identifying and implementing appropriate avoidance and minimization measures concerning artificial nighttime lighting.

To support the City of La Quinta in reducing impacts of artificial nighttime lighting on biological resources to less than significant, CDFW recommends that the City of La Quinta add to a revised MND the following mitigation measure:

### **Mitigation Measure BIO-[B]: Artificial Nighttime Lighting**

**Throughout the lifetime operations of the Project, the City of La Quinta shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of La Quinta shall ensure that all lighting for the Project is fully shielded, cast downward, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). The City of La Quinta shall ensure use of 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.**

### **6) Landscaping**

Page 4.1-8 of the MND indicates that the Project proposes landscaping that includes “a mix of drought tolerant groundcover, shrubs and trees.” The MND lacks additional details on the plant species proposed for landscaping. 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

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<sup>6</sup> Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. *The ecological impacts of nighttime light pollution: a mechanistic appraisal*. *Biological Reviews*, 88.4 (2013): 912-927.

landscaping and water-efficient irrigation systems is available on California's Save our Water website: <https://saveourwater.com/>. CDFW also recommends that the DEIS include recommendations regarding landscaping from Section 4.0 of the CVMSHCP "Table 4-112: Coachella Valley Native Plants Recommended for Landscaping" (pp. 4-180 to 4-182; <https://cvmshcp.org/plan-documents/>).

## **ENVIRONMENTAL DATA**

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

## **ENVIRONMENTAL DOCUMENT FILING FEES**

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

## **CONCLUSIONS**

CDFW appreciates the opportunity to comment on the MND to assist City of La Quinta in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the MND lacks sufficient information for a meaningful review of impacts to biological resources, including a complete project description and recent assessment of biological resources on the Project site. The CEQA Guidelines indicate that recirculation is required when insufficient information in the MND precludes a meaningful review (§ 15088.5) or when a new significant effect is identified and additional mitigation measures are necessary (§ 15073.5). CDFW recommends that a revised MND, including a complete Project description including lighting plans and specifications and a recent assessment of impacts to biological resources be recirculated for public comment. CDFW also recommends that revised and additional mitigation measures as described in this letter be added to a revised MND.

Sijifredo Fernandez, Associate Planner  
City of La Quinta  
June 20, 2023  
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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](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

**Attachment 1: MMRP for CDFW-Proposed Mitigation Measures**

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW  
[Heather.Brashear@Wildlife.ca.gov](mailto:Heather.Brashear@Wildlife.ca.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

Rollie White, U.S. Fish and Wildlife Service  
[rollie\\_white@fws.gov](mailto:rollie_white@fws.gov)

Vincent James, U.S. Fish and Wildlife Service  
[vincent\\_james@fws.gov](mailto:vincent_james@fws.gov)

**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

Mitigation Measures	Timing and Methods	Responsible Parties
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<p><b>Mitigation Measure BIO-[A]: Assessment of Biological Resources</b></p> <p>Prior to Project construction activities, a complete and 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), will be completed. 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.</p>	<p><b>Timing:</b> Prior to Project construction activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of La Quinta</p> <p><b>Monitoring and Reporting:</b> City of La Quinta</p>
<p><b>Mitigation Measure BIO-2: Burrowing Owl Avoidance</b></p> <p>Suitable burrowing owl habitat has been confirmed on the Project site and surrounding area; therefore, focused burrowing owl surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version) prior to vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site</p>	<p><b>Timing:</b> Prior to the start of Project-related activities for focused surveys. No less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance for preconstruction surveys.</p>	<p><b>Implementation:</b> Project Applicant</p> <p><b>Monitoring and Reporting:</b> City of La Quinta</p>

<p>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 minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>	<p><b>Methods:</b> See Mitigation Measure</p>	
<p><b>Mitigation Measure BIO-3: Nesting Birds</b></p> <p>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</p>	<p><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of La Quinta</p> <p><b>Monitoring and Reporting:</b> City of La Quinta</p>

<p>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><b>Mitigation Measure BIO-4a: Surveys for Daytime, Nighttime, Wintering (Hibernacula), and Maternity Roosting Sites for Bats</b></p> <p>Prior to the initiation of Project activities within suitable bat roosting habitat, City of La Quinta shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.</p> <p>If active hibernacula or maternity roosts are identified in the work area or 500 feet extending from the work area during preconstruction surveys, for maternity roosts, Project activities will be initiated between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed.</p> <p>A minimum 500-foot no-work buffer shall be provided around hibernacula. The buffer shall not be reduced.</p>	<p><b>Timing:</b> Prior to initiation of Project activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of La Quinta</p> <p><b>Monitoring and Reporting:</b> City of La Quinta</p>

<p>Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until a qualified bat biologist determines that the hibernacula are no longer active. Within this buffer, Project-related activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of a hibernacula is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernacula and provide for construction of an alternative bat roost outside of the work area. A bat roost relocation plan shall be submitted for CDFW review prior to initiation of Project-related activities. The qualified biologist will implement the relocation plan and new roost sites shall be in place before the commencement of any ground-disturbing activities that will occur within 500 feet of the hibernacula. New roost sites shall be in place prior to the initiation of Project-related activities to allow enough time for bats to relocate. Removal of roosts will be guided by accepted exclusion and deterrent techniques. The City of La Quinta shall compensate no less than 2:1 for permanent impacts to roosting habitat.</p>		
<p><b>Mitigation Measure BIO-4b: Avoidance of Bats during Tree Removal</b></p> <p>Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree</p>	<p><b>Timing:</b> During Project activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Project Applicant</p> <p><b>Monitoring and Reporting:</b> City of La Quinta</p>

<p>removals shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.</p>		
<p><b>Mitigation Measure BIO-[B]: Artificial Nighttime Lighting</b></p> <p>Throughout the lifetime operations of the Project, the City of La Quinta shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of La Quinta shall ensure that all lighting for the Project is fully shielded, cast downward, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare into surrounding areas 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 of La Quinta shall ensure use of 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><b>Timing:</b> Throughout the lifetime operations of the Project</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of La Quinta</p> <p><b>Monitoring and Reporting:</b> City of La Quinta</p>