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DEPARTMENT OF FISH AND WILDLIFE  
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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



January 19, 2024  
*Sent via email*

Governor's Office of Planning & Research

Pilar Lopez  
Senior Planner  
City of Rancho Mirage  
69-825 Highway 111  
Rancho Mirage, CA 92270

**Jan 19 2024**

**STATE CLEARINGHOUSE**

Catana Specific Plan (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2023120616

Dear Pilar Lopez:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Rancho Mirage (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:** McKellar McGowan Holdings, LLC.

**Objective:** The Project proposes a mixed-use neighborhood of 210 one- to two-story single family homes, 95 apartments, and 75,000 sq. ft. of retail and office uses on approximately 36 acres. The Project proposed residential building heights up to 37 feet tall and commercial/retail building heights up to 28 feet tall. The Project proposes to generate increased levels of light and glare from interior and exterior building lighting, safety and security lighting, and landscape lighting, and does not propose the use of high intensity outdoor lighting. The Project proposes the use of drought-tolerant landscape materials.

**Location:** The proposed Project is located in the northwest corner of Ramon Road and Rattler Road, Rancho Mirage, CA, 92270. Assessor's Parcel Number 670-230-021. The Project is located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Area outside of a Conservation Area.

**Timeframe:** The MND does not indicate a timeline for Project construction.

## **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 the City 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 a complete and accurate assessment of biological resources on the Project site and an incomplete Project description. 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 an adequate discussion of plans for artificial nighttime lighting. CDFW requests that the MND is revised to include design plans for artificial nighttime lighting and lighting specifications. Artificial nighttime lighting can negatively impact biological resources in a variety of ways as discussed in the Artificial Nighttime Lighting section below. To conduct a meaningful review and provide biological expertise on how to protect biological 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 complete assessment of biological resources within the Project site and surrounding area. A complete 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 an 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 the City in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures

for assessment of biological resources, artificial nighttime lighting, CVMSHCP compliance, and salvage of sand-dependent Covered Species, as well as revising the mitigation measures for nesting birds and burrowing owls (*Athene cunicularia*).

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

Page 5 of the Project's Biological Resources Assessment & Coachella Valley Multiple Species Habitat Conservation Plan and Compliance Report (Biological Assessment) indicates that a field assessment was conducted on January 24, 2023, and that the "entire site and adjacent properties (where accessible) were assessed on foot to record pertinent field data and current site conditions." The Biological Assessment lacks additional details on what survey methods were used, if any species-specific focused surveys were conducted, and if any focused surveys were conducted independently from other survey activities. These among other details on the assessment of biological resources are important to include in a MND and supporting documentation to allow CDFW and to conduct a meaningful review and provide biological expertise. Details on survey methods also help support any findings from the assessment of biological resources and the appropriateness of any identified avoidance, minimization, and mitigation measures. CDFW recommends that the MND and its supporting documents are revised to include additional details on survey methods.

Table 1 of the MND indicates that "[f]ive plant species have a low probability of growing on the site, including Chaparral sand-verbena (*Abronia villosa* var. *aurita*; California Rare Plant Rank (CRPR) 1B.1), Abram's spurge (*Euphorbia abramsiana*; CRPR 2B.2), Arizona spurge (*Euphorbia arizonica*; CRPR 2B.3), flat-seeded spurge (*Euphorbia platysperma*, CRPR 1B.2), and slender cottonheads (*Nemacaulis denudata* var. *gracilis*; CRPR 2B.2). None of these plant species are listed as threatened or endangered and are generally not expected to occur on the site considering the past history of disturbance on this parcel, including grubbing and use of soil binders." CDFW notes that the single field assessment, conducted by one individual over the 36-acre site, was conducted in January, outside of the bloom period of several of these special-status species, including Abram's spurge, Arizona spurge, flat-seeded spurge, and slender cottonheads. Based on review of recent aerial imagery using Google Earth Pro, vegetation on the Project site is re-establishing following the grading activities and application of soil binders conducted in 2018. CDFW notes it is unlikely that grading activities and the application of soil binders would eliminate the seedbank within the Project site, including the seedbank of any rare plant species that may exist. 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. The Project's potential impacts on plants that meet the definition of rare, threatened, or endangered, per Section 15380 of the CEQA Guidelines, must be analyzed in the MND.

CDFW recommends that the MND is revised to include the findings of a thorough, recent, floristic-based assessment of special status plants and natural communities, conducted at the appropriate time of year when the rare plant species, identified as having suitable or potentially suitable habitat within the Project site, are identifiable. Based on findings from a recent floristic-based assessment of special status plants and natural communities, 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. Recent and complete information on biological resources; analysis of a Project's direct, indirect, and cumulative impacts; and appropriate avoidance, minimization, and mitigation measures support the City in demonstrating that Project impacts to biological resources are less than significant.

CDFW recommends that the City include in a revised MND the following mitigation measure:

#### **Mitigation Measure BIO-[A]**

**Prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants>) shall be performed by a qualified biologist. Should any state-listed plant species be present in the Project area, the Project proponent shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should other special-status plants or natural communities be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.**

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 MM BIO-2, as well as CDFW-recommended MM BIO-[A], MM BIO-[B], MM BIO-[C], and MM BIO-[D].

#### **2) 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 33 of the MND indicates that “existing vegetation on and adjacent to the property would have the potential to provide nesting opportunities for birds covered under the Migratory Bird Treaty Act (MBTA).” The Project site contains suitable habitat for nesting birds. The MND includes Mitigation Measures BIO-2 for nesting birds, which indicates that “[t]o avoid impacting nesting birds, either avoidance of project-related disturbance during the nesting season (1 February through 31 August) or nesting bird surveys conducted by a qualified ornithologist or biologist immediately prior to on-site disturbance during the nesting season shall be required.” Conducting work outside the peak breeding season is an important avoidance and minimization measure. CDFW also recommends the completion of pre-construction nesting bird surveys regardless of the time of year. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017<sup>2</sup>). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. 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-2 to be insufficient in scope and timing to reduce impacts to nesting birds to less than significant. CDFW recommends the City revise Mitigation Measure BIO-2 with the following additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-2: 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.**

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<sup>2</sup> Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

**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. Construction activities may not occur inside the established buffers, which 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.** ~~To avoid impacting nesting birds, either avoidance of project-related disturbance during the nesting season (1 February through 31 August) or nesting bird surveys conducted by a qualified ornithologist or biologist immediately prior to on-site disturbance during the nesting season shall be required. If nesting birds are found, no work would be permitted near the nest until young have fledged. There is no established protocol for nest avoidance, however, when consulted the CDFW generally recommends avoidance buffers of about 500 feet for birds-of-prey and species listed as threatened or endangered, and 100–300 feet for unlisted songbirds.~~

### **3) *Burrowing Owl***

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.”

Page 32 of the MND indicates that “[s]ince the site is currently vacant and covered sparsely with vegetation, there is a very low potential for burrowing owl to occur onsite. None were identified during the site survey, nor were their sign or suitable burrows sighted.” CDFW is concerned about the accuracy of the conclusion that burrowing owl have a very low potential to occur onsite. CDFW notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few

shrubs,<sup>3</sup> and that burrowing owls may occur in ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat proximity.<sup>4</sup> In addition, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats<sup>5,6</sup> The Project site contains suitable habitat for burrowing owl, and burrowing owl have the potential to move onto the Project site before the start of Project construction. CDFW requests this information on the suitability of burrowing owl habitat on the Project site is updated in a revised MND. CDFW is also concerned about the limited information provided in the MND and its supporting documents regarding surveys for burrowing owl.

The Project's Biological Resources Assessment (Biological Assessment) dated January 24, 2023, does not indicate the methods used to conduct surveys for burrowing owl and if a complete burrowing owl habitat assessment or focused surveys for burrowing owl were conducted following guidelines in the *Staff Report on Burrowing Owl Mitigation* (CDFW 2012<sup>7</sup>). Given the MND's lack of discussion on survey methods and lack of findings from a recent habitat assessment for burrowing owls following the guidelines in the *Staff Report on Burrowing Owl Mitigation*, it is uncertain if suitable burrows or burrow surrogates exist within the Project area or surrounding areas. CDFW recommends the MND is revised to include the findings of focused surveys following guidelines outlined in the *Staff Report on Burrowing Owl Mitigation*<sup>7</sup>. Focused surveys for burrowing owl provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, 3503.5, and 3513. If focused surveys confirm occupied burrowing owl habitat in or adjacent to the Project area, CDFW recommends that the MND is revised to include an impact assessment per guidelines in the *Staff Report on Burrowing Owl Mitigation*. Impact assessments evaluate the extent

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<sup>3</sup> Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. Burrowing owl (*Speotyto cunicularia*), in A. Poole and F. Gill, editors, *The Birds of North America*, The Academy of Natural Sciences, Philadelphia, Pennsylvania, and The American Ornithologists' Union, Washington, D.C., USA.

<sup>4</sup> Gervais, J. A., D. K. Rosenberg, R. G. Anthony. 2003. Space use and pesticide exposure risk of male burrowing owls in an agricultural landscape. *Journal of Wildlife Management* 67: 155-164.

<sup>5</sup> Chipman, E. D., N. E. McIntyre, R. E. Strauss, M. C. Wallace, J. D. Ray, and C. W. Boal. 2008. Effects of human land use on western burrowing owl foraging and activity budgets. *Journal of Raptor Research* 42(2): 87-98.

<sup>6</sup> Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162-176.

<sup>7</sup> California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency.



to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of the proposed Project. Focused surveys and an impact assessment will also inform appropriate avoidance, minimization, and mitigation measures for the Project and help demonstrate that impacts to burrowing owls are less than significant.

Although the MND includes Mitigation Measure BIO-1, CDFW considers the measure insufficient in scope and timing to reduce impacts to burrowing owl to less than significant. CDFW recommends that the City revise Mitigation Measure BIO-1 with the following additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure 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* prior to vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent 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.**

~~To avoid impacting nesting birds, either avoidance of project-related disturbance during the nesting season (1 February through 31 August) or nesting bird surveys conducted by a qualified ornithologist or biologist immediately prior to on-site disturbance during the nesting season shall be required. If nesting birds are found, no work would be permitted near the nest until young have fledged. There is no established protocol for nest avoidance, however, when consulted the CDFW generally recommends avoidance buffers of about 500 feet for birds of prey and species listed as threatened or endangered, and 100–300 feet for unlisted songbirds.~~

**4) Artificial Nighttime Lighting**

The Proposed project will result in new sources of artificial nighttime lighting. Page 20 of the MND indicates that the “ultimate development of the Project site can be expected to generate increased levels of light and glare from interior and exterior building lighting, safety and security lighting, landscape lighting, and vehicles accessing the site during the day and nighttime; however, the SP [Specific Plan] does not propose the use of high intensity outdoor lighting.” Page 64 of the MND indicates that the “Specific Plan provides standards requiring signage to be high quality, attractive, and informative. The standards require lighting to be shielded and directed downward in order to reduce glare, preserve dark night skies, while still providing directional, safety, and informational functions.” No additional details are provided on lighting design plans or specifications or additional avoidance, minimization, or mitigation measures associated with artificial nighttime lighting.

The Project is located adjacent to open-space areas to the west and east—areas that provide suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, bats, other nocturnal and crepuscular wildlife, and Covered Species under the CVMSHCP. The open-space area to the east contains modeled habitat for CVMSHCP Covered Species including, but not limited to, flat-tailed horned lizard (*Phrynosoma mcallii*), Coachella Valley fringe-toed lizard (*Uma inornata*), Palm Springs pocket mouse (*Perognathus longimembris bangsi*), and Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*). The Project’s proposed artificial nighttime lighting has the potential to significantly and adversely affect fish and wildlife in the open-space areas adjacent to the Project site. 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<sup>8</sup>. Many species use photoperiod cues for communication (e.g., bird song<sup>9</sup>), determining when to begin foraging<sup>10</sup>, behavioral thermoregulation<sup>11</sup>, and migration<sup>12</sup>. Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it<sup>8</sup>.

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 within open-space areas adjacent to the Project site. CDFW also recommends the MND is revised to include lightning design plans and lighting specifications to allow CDFW to conduct a meaningful review and provide appropriate biological expertise. Also, the MND lacks a mitigation measure for artificial nighttime lighting. To support the City in avoiding or reducing impacts of artificial nighttime lighting on biological resources to less than significant, CDFW recommends that the City add the following mitigation measure to a revised MND:

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

**Throughout construction and the lifetime operations of the Project, the City of Rancho Mirage and Project proponent 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 Rancho Mirage and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward, reduced in intensity to the greatest extent possible, 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 Rancho Mirage and Project proponent 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.**

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<sup>8</sup> Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. 2013. The ecological impacts of nighttime light pollution: a mechanistic appraisal. *Biological Reviews*, 88.4: 912-927.

<sup>9</sup> Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

<sup>10</sup> Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

<sup>11</sup> Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.

<sup>12</sup> Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

## **5) Coachella Valley Multiple Species Habitat Conservation Plan**

### Local Development Mitigation Fee

Page 33 of the MND indicates that the Project site is “located within the boundaries of the CVMSHCP, and is therefore subject to payment of the Development Mitigation Fee, which will mitigate potential impacts to covered species as a standard requirement imposed by the City.” To document the City’s obligation as a Local Permittee under the CVMSHCP to impose a local development mitigation fee for this Project, CDFW recommends the City add the following mitigation measure to a revised MND:

#### **Mitigation Measure BIO-[C]: CVMSHCP Compliance**

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

### Salvage of Sand-Dependent Covered Species

Further, Section 6.6.1 of the CVMSHCP (Obligations of Local Permittees) states that within and outside Conservation Areas “on parcels approved for Development, the Permittees shall encourage the opportunity to salvage Covered sand-dependent species in accordance with the Implementation Manual.” The Project site contains modeled habitat for CVMSHCP Covered Species including, but not limited to, flat-tailed horned lizard, Coachella Valley fringe-toed lizard, Palm Springs pocket mouse, and Coachella Valley round-tailed ground squirrel. To be consistent with the CVMSHCP, CDFW recommends that the City of Rancho Mirage include in a revised MND the following mitigation measure:

#### **Mitigation Measure BIO-[D]: Salvage of Sand-Dependent Covered Species**

**Prior to vegetation removal or ground-disturbing activities, the City of Rancho Mirage will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of Covered sand-dependent species within the Project site.**

## **6) Landscaping**

Page 56 of the MND indicates that the Project “includes irrigation requirements, including the use of water-efficient fixtures and drought-tolerant landscape materials”. No other details are provided in the MND on the Project’s proposed landscaping plans. 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/cities and resource conservation cities 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/>. CDFW also recommends that the MND 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.)

## **CONCLUSION**

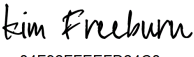
CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the MND lacks sufficient information for a meaningful review of impacts to biological resources,

Pilar Lopez, Senior Planner  
City of Rancho Mirage  
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including a complete assessment of biological resources and Project description. 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 assessment of biological resources and Project description, be recirculated for public comment. CDFW also recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Kim Freeburn  
Environmental Program Manager

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

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

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-[A]</b></p> <p>Prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <a href="https://www.wildlife.ca.gov/Conservation/Plants">https://www.wildlife.ca.gov/Conservation/Plants</a>) shall be performed by a qualified biologist. Should any state-listed plant species be present in the Project area, the Project proponent shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should other special-status plants or natural communities be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.</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 Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>
<p><b>Mitigation Measure BIO-2: 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 qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which</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 Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>

<p>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-1: Burrowing Owl Surveys</b></p> <p>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 <i>Staff Report on Burrowing Owl Mitigation</i> prior to vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent 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.</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</p>	<p><b>Timing: Focused surveys:</b> Prior to vegetation removal or ground-disturbing activities. <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><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>



<p>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>Mitigation Measure BIO-[B]: Artificial Nighttime Lighting</b></p> <p>Throughout construction and the lifetime operations of the Project, the City of Rancho Mirage and Project proponent 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 Rancho Mirage and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward, reduced in intensity to the greatest extent possible, 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 Rancho Mirage and Project proponent 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 construction and the lifetime operations of the Project.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>
<p><b>Mitigation Measure BIO-[C]: CVMSHCP Compliance</b></p> <p>Prior to construction and issuance of any grading permit, the City of Rancho Mirage shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee and transfer of revenues to the Coachella Valley Conservation Commission.</p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>
<p><b>Mitigation Measure BIO-[D]: Salvage of Sand-Dependent Covered Species</b></p> <p>Prior to vegetation removal or ground-disturbing activities, the City of Rancho Mirage will collaborate</p>	<p><b>Timing:</b> Prior to vegetation removal or</p>	<p><b>Implementation:</b> City of Rancho Mirage</p>

<b>with the Coachella Valley Conservation Commission to plan and implement a salvage of Covered sand-dependent species within the Project site.</b>	ground-disturbing activities  <b>Methods:</b> See Mitigation Measure	<b>Monitoring and Reporting:</b> City of Rancho Mirage
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