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Subject: Draft Mitigated Negative Declaration, McCall Boulevard Road Widening Project, State Clearinghouse No. 2024020079, City of Menifee, County of Riverside

Dear Diego Guillen:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Menifee (County), as the Project Applicant/Proponent, for the McCall Boulevard Road Widening Project (Project), pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, *et seq.*, of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. CDFW is providing the following comments as they relate to the Project’s consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION AND SUMMARY

Description: The City of Menifee (City; Lead Agency and the Project Applicant), is proposing the McCall Boulevard Road Widening Project (Project). The proposed Project will consist of the widening of McCall Boulevard between Antelope Road and Heritage Lake Drive (approximately 0.75 mile) with a new eastbound and westbound traffic lane, widening the two-lane segment of McCall Boulevard to four lanes. The Project would install traffic signals, street lighting, sidewalks, curb and gutter, Americans with Disabilities Act ramps, and a retaining wall. Some existing utilities would need to be relocated as part of the widening.

Location: The Project site is located within the McCall Boulevard right-of-way between Antelope Road and Heritage Lake Drive in the City of Menifee, Riverside County, California, in Sections 23 and 24, Township 5 South, Range 3 West, of the U.S. Geological Survey Romoland 7.5”, California topographic quadrangle map; Latitude 33.721001°, Longitude -117.161659°.

COMMENTS AND RECOMMENDATIONS

Based on the documents for review, CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project’s significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains

adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Western Riverside County Multiple Species Habitat Conservation Plan

Compliance with approved habitat plans, such as the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP.

To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the MSHCP, the Permits, and the Implementing Agreement. The City is the Lead Agency and is signatory to the Implementing Agreement of the MSHCP. To demonstrate consistency with the MSHCP, as part of the CEQA review, the City shall ensure the Project implements the following:

1. Contributes to MSHCP implementation through payment of a fee based on the type of proposed activity.
2. Demonstrates compliance with: 1) the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the MSHCP; 2) the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3; 3) the policies set forth in Section 6.3.2; and 4) the Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP. All obligations must be satisfied prior to impacts to Covered Species and their Habitats.

Comment #2: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement (LSAA)

Issue: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Specific Impact: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq. The MND identified that the

Project will cross over existing culverts and riparian/riverine resources. There is no discussion on whether these culverts will be avoided or if they are to be temporarily impacted by the construction activities. The Project activities have the potential to impact fish and wildlife resources through the deposition of debris, waste or other materials that could pass into any river, stream, or lake.

Why Impact Would Occur: Project-related activities could potentially alter drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.

Evidence Impact Would Be Significant: The Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the deposition of debris, waste or other materials that could pass into any river, stream or lake. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the City include the following mitigation measure.

CDFW recommends the inclusion of the following measure in the MND per the edits below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program":

Mitigation Measure XX: Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streambed Alteration Agreement is not required.

The notification to CDFW should provide the following information:

- 1. A stream delineation including the bed, bank and channel;**
- 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);**
- 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and**
- 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.**

If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. On-site mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring

Plan shall be prepared, if necessary, to describe proposed enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.

Comment #3: Burrowing Owl

Issue: The Project may have a significant impact on burrowing owl (*Athene cunicularia*), a Species of Special Concern (SSC).

Specific impacts: Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and State-wide declines of burrowing owl.

Why impacts would occur: The MND and Appendix B identifies that the Project site was evaluated for burrowing owl habitat, and at least four potentially suitable burrows were found. Therefore, focused burrowing owl surveys are required by the MSHCP. The protocol burrowing owl focused surveys of the Project site have yet to be completed, as described in the 2006 Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area. The “Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area” specify that focused surveys for burrowing owl should be conducted, and a written report must be provided detailing results of the habitat assessment with photographs and indicating whether the project site contains suitable burrowing owl habitat and burrow locations.

Without information regarding occupancy of the site and how the site may be used by owls (e.g., breeding, overwintering, foraging, etc.), the MND may not be able to determine whether the project can mitigate its impacts to less than significant. CDFW recommends the MND be revised and circulated to provide this information. However, if the City chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

Burrowing owls could react to low level disturbances such as surveys, drive by, or minimal ground disturbance/excavation (Environment Canada 2009). The Project could generate noise and ground vibrations more consistent with medium to high level disturbance. Project construction would generate noise and ground vibrations during daytime and nighttime earthmoving activities, demolition, tunneling, spoils hauling, and operation of large machinery. These types of disturbances could result in burrowing owls abandoning active nests, potentially causing loss of eggs or developing young, and noise could cause birds to avoid suitable nesting habitat.

BIO-2 states that “If preconstruction survey results are positive and impacts to burrowing owls are unavoidable, then additional mitigation measures will need to be implemented consistent with those described for positive focused surveys above.” No avoidance or mitigation measures are described in BIO-2 to mitigate Project impacts if owls are found onsite. There is insufficient information provided to determine if the proposed avoidance and minimization measures will mitigate Project impacts below a level of significance.

Evidence impact would be significant: Burrowing owl is an SSC, an SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022b). CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). In addition, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

In California, burrowing owls are in decline primarily because of habitat loss, as well as disease, predation, and drought. Burrowing owls require specific soil and microhabitat conditions, occur in few locations within a broad habitat category of grassland and some forms of agricultural land, require a relatively large home range to support their life history requirements, occur in relatively low numbers, and are semi-colonial.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To avoid take of active burrowing owl burrows (nests), CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 “Mitigation Monitoring and Reporting Program.”

MM-BIO 2: Burrowing Owl. Due to the presence of suitable habitat, including potential burrows, four focused burrowing owl surveys shall be conducted on the Project Area and within a 500-foot buffer during the burrowing owl breeding season (March 1 through August 31) in accordance with the Western Riverside MSHCP Burrowing Owl Survey Instructions (County of Riverside 2006). If survey results are negative (i.e., no occupied burrows or live burrowing owls are detected) and ground-disturbing Project activities are scheduled to begin within 30 days of the final survey, then no additional preconstruction survey or biological monitoring requirements will be necessary.

If survey results are positive (i.e., presence of occupied burrows with sign present [such as whitewash, feathers, pellets, bones of prey items] or live owls) and impacts to the species are unavoidable, then additional mitigation measures will need to be implemented to offset impacts to burrowing owl and **the project proponent will need to inform the California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS) immediately.** These measures shall be developed in accordance with the CDFW Staff Report on Burrowing Owl Mitigation (2012). ~~and may include seasonal work restrictions, establishing a non-disturbance buffer around each burrow location, biological monitoring, or passive relocation. If Project ground-disturbing activities are scheduled to occur more than 30 days following the final focused burrowing owl survey, then preconstruction surveys for burrowing owl shall take place no more than 30 days prior to the start of ground-disturbing activities, regardless of whether Project activities are scheduled to occur during the burrowing owl breeding season or not. The surveys shall be performed in accordance with the Western Riverside MSHCP Burrowing Owl~~ **An experienced biologist will need to verify if any burrowing owls within the project site are breeding or wintering, a Burrowing Owl Protection and Relocation Plan will be prepared detailing passive (e.g., use of one-way doors and collapse of burrows) and/or active (e.g., capturing owls, relocating to a new site, and collapse of burrows) relocation methods. The Burrowing Owl Protection and Relocation Plan will be submitted to CDFW and USFWS for approval prior to initiating ground disturbance within the project site. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted,**

details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed.

If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If burrowing owls are observed within the project site at any time during project activities, the CDFW and USFWS shall be notified immediately, and a Burrowing Owl Plan will be prepared as described above.

Comment #4: Nesting Bird

Issue: The Project may have a significant impact on nesting birds, including Species of Special Concern and fully protected species, that are subject to Fish and Game Code section 3513 and the Migratory Bird Treaty Act of 1918.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species from the removal of vegetation onsite.

Why impacts would occur: Project activities could result in temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy equipment may disrupt nesting bird mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feather and body

growth of young birds (Kleist et al. 2018). In addition to construction activities, residential development and increased human presence in the Project site could contribute to nesting bird impacts.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests.

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests. Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting nesting birds. This may result in take of nesting birds. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Evidence impacts would be significant: It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it 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 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the 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.). 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) 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. These regulations apply anytime nests or eggs exist on the Project site.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

MM BIO-5: Nesting Bird Surveys. ~~Wherever~~ **To the greatest extent feasible, any ground-disturbing construction activities including the removal and/or trimming of vegetation suitable for nesting birds, shall**

be conducted during the nonbreeding season for birds ~~(approximately September 1 through January 31)~~ in order to avoid violations of the MBTA and California Fish and Game Code §§ 3503, 3503.5 and 3513. If activities with the potential to disrupt nesting birds are scheduled to occur during the bird breeding season ~~(February 1 through August 31)~~, a preconstruction nesting bird survey shall be conducted by a qualified biologist who is experienced in the identification of avian species and conducting nesting bird surveys no more than three days prior to the start of construction activities. The nesting bird survey shall include the Project Area and adjacent areas where Project activities have the potential to cause nest failure. **If construction is inactive for more than three days, an additional survey shall be conducted. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to City. The Project Applicant shall adhere to the following:**

- 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
- 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.**

If no nesting birds are observed during the survey, site preparation and construction activities may begin. If nesting birds (including nesting raptors) are found to be present, avoidance or minimization measures shall be undertaken to avoid potential Project-related impacts. **If nesting birds are discovered during preconstruction surveys, the biologist shall identify a** ~~Measures may include establishment of a non-disturbance buffer until nesting has been completed as determined through periodic nest monitoring by the biologist~~ **based on their best professional judgement and experience.** The size of the non-disturbance buffer will be determined by the Project biologist. **The buffer shall be of a distance to ensure avoidance of**

adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. Construction personnel shall be instructed regarding the ecological sensitivity of the fenced area. Typically, this is 300 feet from the nest site in all directions (500 feet is typically recommended by CDFW for raptors) until the juveniles have fledged and there has been no evidence of a second attempt at nesting. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The biological monitor may modify the buffer or propose other recommendations in order to minimize disturbance to nesting birds. Work can resume within these avoidance areas when no other active nests are found. The results of the survey shall be documented and filed with the Environmental Permitting Department prior to construction.

Comment #5: Coastal California Gnatcatcher

Issue: The Project may have a significant impact on coastal California gnatcatcher (*Polioptila californica californica*), a Species of Special Concern (SSC) and ESA-listed species.

Specific impact: Project construction and activities may result in injury or mortality of coastal California gnatcatcher, disrupt natural coastal California gnatcatcher breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Populations of coastal California gnatcatcher have been found to be genetically isolated from other populations within their range. Lack of genetic mixing between other geographical populations is likely due to heightened fragmentation and loss of suitable habitat across their range in southern California (Vandergast 2019).

Why impacts would occur: There is approximately 3.44 acres of potential habitat (coastal sage scrub) for coastal California gnatcatcher within the Project site and additional 27 acres of coastal sage scrub within the surrounding 500-foot buffer. The proposed Project activities would remove 3.44 acres of coastal California gnatcatcher habitat. This area is occupied by coastal California gnatcatcher; two gnatcatchers were detected on site in November 2022 during the general biological surveys. Based on the information provided in the MND, targeted surveys following the United States Fish and

Wildlife Service (USFWS) 2019 survey protocol guidelines were yet not completed for coastal California gnatcatcher.

Surveys for coastal California gnatcatcher are necessary to understand the impacts the Project may have on gnatcatcher nesting habitat and to identify occupied gnatcatcher habitat to meet MSHCP requirements. Coastal California gnatcatcher is an ESA-listed species as Threatened, and the USFWS permit for the MSHCP restricts clearing of coastal California gnatcatcher-occupied habitat during the nesting season: “clearing of occupied habitat within [Public/Quasi-Public (PQP)] lands and the Criteria Area between March 1 and August 15 is prohibited.” (per Condition 5b of the USFWS MSHCP permit). This condition protects gnatcatchers during the nesting season and prevents take of active nests.

Gnatcatchers are territorial, year-round residents with high-site fidelity, and can be extremely quiet during brooding and therefore difficult to detect when nesting. There must be a clear understanding of habitat use by coastal California gnatcatcher before any vegetation removal or ground disturbance occurs. The Project Applicant cannot rely on nesting bird surveys just prior to grading to determine gnatcatcher use of coastal sage scrub and chapparal on the Project site. CDFW recommend protocol surveys to determine coastal California gnatcatcher use of the site within one year of start of project activities or adherence to the vegetation removal restriction periods in the permits.

Evidence impacts would be significant: Coastal California gnatcatcher is an ESA-listed species and a California SSC. ESA-listed species are considered endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. CEQA provides protection not only for State and federally listed species, but for any species including, but not limited to SSC, which can be shown to meet the criteria for State listing. SSC’s meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC’s could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Coastal California gnatcatchers are non-migratory, territorial, and have been found not to disperse far from their natal nests (Bailey 1998; Vandergast 2019). Thus, the preservation of sensitive natural communities which they have been documented to utilize is paramount.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the City include the following

mitigation measures in the MND per below (edits are in ~~striketrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program.

MM BIO-01: ~~The MSHCP does not have specific survey requirements for this species. Prior to grading or other ground-disturbing activities are proposed, a qualified biologist shall survey all potential nesting vegetation within and adjacent to the site for nesting coastal California gnatcatcher according to United States Fish and Wildlife Service (USFWS) 2019 survey protocol guidelines. However, within seven days of commencement of construction, a biologist specializing in the identification of coastal California gnatcatcher should survey the Project Area and a 500-foot buffer to determine if this species is present and/or nesting if construction is planned during the breeding season (typically Feb. 1 through August 31).~~ **The City of Menifee (City) shall impose conditions of approval on future grading permits requiring focused surveys to be conducted prior to ground disturbance or discing activities. A minimum of three (3) surveys shall be conducted at least one week apart to determine presence/absence of coastal California gnatcatcher. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Written and mapped qualitative descriptions of plant communities (including dominant species and habitat quality) on and adjacent to the area surveyed will also be provided with survey results to USFWS and California Department of Fish and Wildlife (CDFW), within 45 days following the field surveys, prior to ground disturbing activities. The results of the focused surveys shall be provided to the City, CDFW, and USFWS for review and approval prior to commencement of ground disturbing or discing activities.**

In the event that the focused surveys do not identify the presence of California gnatcatcher, habitat has been confirmed to be unoccupied by California gnatcatcher, and MM BIO-5 has been completed, then ground disturbance or discing may occur during the nesting season (i.e., between March 1 and August 15). In the event that the focused surveys identify the presence of California gnatcatchers, then ground disturbance or discing of the occupied areas shall be prohibited between March 1 and August 15. If nesting behavior indicative of an active nest is detected within the Project Area, the location should be avoided until the nest becomes inactive ~~the nest site shall be fenced with a buffer of a minimum of 500 feet in all directions, and this area shall not be disturbed until after the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, and the young have left the area, as confirmed by a qualified biologist. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a~~

disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. A biologist will establish an appropriate no-work buffer until the nest becomes inactive. Routine monitoring of the nest should occur to verify that disturbance to the nest is not occurring. **If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. Project contractors shall be required to ensure compliance with these requirements and permit periodic inspection of the construction site by City of Menifee staff or its designee to confirm compliance.**

Comment #6: Narrow Endemic Plants

Issue: The Project may impact Narrow Endemic Plants species outlined in MSHCP Section 6.1.3.

Specific Impacts: Portions of the Project site fall within the MSHCP Section 6.1.3 survey area and have the potential to support the following Narrow Endemic Plant Species: Munz's onion (*Allium munzii*), San Diego ambrosia (*Ambrosia pumila*), many-stemmed dudleya (*Dudleya multicaulis*), spreading navarretia (*Navarretia fossalis*), California Orcutt grass (*Orcuttia californica*), and Wrights trichocoronis (*Trichocoronis wrightii* var. *wrightii*).

Why impact would occur: As noted in the MND, the Project site occurs within survey areas for Narrow Endemic Plant Species, MSHCP Section 6.1.3, including Munz's onion, Rare plant rank [RPR] 1B.1), many-stemmed dudleya (RPR 1B.2), San Diego ambrosia (RPR 1B.1), spreading navarretia (RPR 1B.1), California Orcutt grass (RPR 1B.1), and Wrights trichocoronis (RPR 2B.1), which have the potential to occur onsite. However, the MND states that focused surveys have yet to be conducted for narrow endemic plant species.

Based on rainfall in a given year, surveys for San Diego ambrosia, many-stemmed dudleya, and California Orcutt grass should be typically done at peak blooming which can be from March through the end of July. Surveys for Munz's onion should be typically done from March through the end of May. Surveys for Wrights trichocoronis should be typically done from May through the end of September. Surveys for spreading navarretia should be done from April through the end of June. The MND should include surveys for these species done within the appropriate time of year. Absent further survey details and surveys being conducted outside of the blooming period for these species, the MND may not be able to confirm that presence or absence of narrow endemic plant species was properly assessed.

Evidence impact would be significant: Narrow endemic plant species are highly restricted by their habitat affinities, edaphic requirements, or other ecological factors, and for which specific conservation measures have been identified in the MSHCP if the species are present. Special surveys are required to ensure conservation of the species if present on the Project site. The MSHCP specifies that survey results shall be documented in mapped and text form and shall be presented for review by the City. Therefore, CDFW recommends that the City conduct focused surveys for narrow endemic plants following CDFW guidelines below in MM BIO-06 and include such information in detail in the final MND. If not, CDFW recommends the City adopt MM BIO-06 in the final MND to ensure avoidance, minimization and mitigation strategies are implemented for the species and to demonstrate consistency with MSHCP requirements.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To avoid take of narrow endemic plant species, CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 “Mitigation Monitoring and Reporting Program.

MM BIO-06: Prior to construction and at the appropriate time of year, **a qualified biologist shall conduct** focused rare plant surveys ~~should occur~~ in all portions of the Project Area that could support rare plants **following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018)**. The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, **including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting**. Surveys must occur during the typical blooming period for all species with the potential to occur within the Project Area as well as those pertaining to the NEPSSA. More than one survey may be necessary to meet this requirement, because blooming periods vary for many plant species. Surveys methods must include 100-percent survey coverage, which can be attained by walking transects spaced appropriately, and no more than 10 meters apart. **If any special-status plants are identified, the City shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the City shall mitigate the loss of the plant(s) through land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis.**

Additional Recommendations

Weed Management Plan. A weed management plan should be developed for the Project site and implemented during the duration of this Project. On-going soil disturbance promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established. The Projects site should be monitored via mapping for new introductions and expansions of non-native weeds.

Mitigation and Monitoring Reporting Plan

CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation, monitoring, and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment 1).

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 for the McCall Boulevard Road Widening Project, State Clearinghouse No. 2024020079 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that the City of Menifee address CDFW's comments and concerns prior to adoption of the MND for the Project.

Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Environmental Scientist, at katrina.rehrer@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM)		Timing	Responsible Party
Lake or Streambed Alteration Agreement	<p>MM-BIO XX: Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streambed Alteration Agreement is not required.</p> <p>The notification to CDFW should provide the following information:</p> <ol style="list-style-type: none"> 1. A stream delineation including the bed, bank and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);</p> <ol style="list-style-type: none">3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. <p>If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. On-site mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, to describe proposed enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.</p>		
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<p>Burrowing Owl</p>	<p>MM-BIO 2: Burrowing Owl. Due to the presence of suitable habitat, including potential burrows, four focused burrowing owl surveys shall be conducted on the Project Area and within a 500-foot buffer during the burrowing owl breeding season (March 1 through August 31) in accordance with the Western Riverside MSHCP Burrowing Owl Survey Instructions (County of Riverside 2006). If survey results are negative (i.e., no occupied burrows or live burrowing owls are detected) and ground-disturbing Project activities are scheduled to begin within 30 days of the final survey, then no additional preconstruction survey or biological monitoring requirements will be necessary.</p> <p>If survey results are positive (i.e., presence of occupied burrows with sign present [such as whitewash, feathers, pellets, bones of prey items] or live owls) and impacts to the species are unavoidable, then additional mitigation measures will need to be implemented to offset impacts to burrowing owl and the project proponent will need to inform the California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS) immediately. These measures shall be developed in accordance with the CDFW Staff Report on Burrowing Owl Mitigation (2012). An experienced biologist will need to verify if any burrowing owls within the project site are breeding or wintering, a Burrowing Owl Protection and Relocation Plan will be prepared detailing passive (e.g., use of one-way doors and collapse of burrows) and/or active (e.g., capturing owls, relocating to a new site, and collapse of burrows) relocation methods. The Burrowing Owl Protection and Relocation Plan will be submitted to CDFW and USFWS for approval prior to initiating ground disturbance within the project site. The</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
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	<p>Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed.</p> <p>If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the "Mitigation Impacts" section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>If burrowing owls are observed within the project site at any time during project activities, the CDFW and USFWS shall be</p>		
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	<p>notified immediately, and a Burrowing Owl Plan will be prepared as described above.</p>		
<p>Nesting Birds</p>	<p>MM BIO-5: Nesting Bird Surveys. To the greatest extent feasible, any ground-disturbing construction activities, including the removal and/or trimming of vegetation suitable for nesting birds, shall be conducted during the nonbreeding season for birds in order to avoid violations of the MBTA and California Fish and Game Code §§ 3503, 3503.5 and 3513. If activities with the potential to disrupt nesting birds are scheduled to occur during the bird breeding season, a preconstruction nesting bird survey shall be conducted by a qualified biologist who is experienced in the identification of avian species and conducting nesting bird surveys no more than three days prior to the start of construction activities. The nesting bird survey shall include the Project Area and adjacent areas where Project activities have the potential to cause nest failure. If construction is inactive for more than three days, an additional survey shall be conducted. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to City. The Project Applicant shall adhere to the following:</p> <ol style="list-style-type: none"> 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.</p> <p>2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.</p> <p>If no nesting birds are observed during the survey, site preparation and construction activities may begin. If nesting birds (including nesting raptors) are found to be present, avoidance or minimization measures shall be undertaken to avoid potential Project-related impacts. If nesting birds are discovered during preconstruction surveys, the biologist shall identify a non-disturbance buffer until nesting has been completed as determined through periodic nest monitoring by the biologist based on their best professional judgement and experience. The size of the non-disturbance buffer will be determined by the Project biologist. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. Construction personnel shall be instructed regarding the ecological sensitivity of the fenced area. All nests shall be monitored as determined by the qualified biologist until</p>		
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	<p>nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The biological monitor may modify the buffer or propose other recommendations in order to minimize disturbance to nesting birds. Work can resume within these avoidance areas when no other active nests are found. The results of the survey shall be documented and filed with the Environmental Permitting Department prior to construction.</p>		
<p>Coastal California Gnatcatcher</p>	<p>MM BIO-01: Prior to grading or other ground-disturbing activities are proposed, a qualified biologist shall survey all potential nesting vegetation within and adjacent to the site for nesting coastal California gnatcatcher according to United States Fish and Wildlife Service (USFWS) 2019 survey protocol guidelines. The City of Menifee (City) shall impose conditions of approval on future grading permits requiring focused surveys to be conducted prior to ground disturbance or discing activities. A minimum of three (3) surveys shall be conducted at least one week apart to determine presence/absence of coastal California gnatcatcher. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Survey duration shall take into</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Written and mapped qualitative descriptions of plant communities (including dominant species and habitat quality) on and adjacent to the area surveyed will also be provided with survey results to USFWS and California Department of Fish and Wildlife (CDFW), within 45 days following the field surveys, prior to ground disturbing activities. The results of the focused surveys shall be provided to the City, CDFW, and USFWS for review and approval prior to commencement of ground disturbing or discing activities.</p> <p>In the event that the focused surveys do not identify the presence of California gnatcatcher, habitat has been confirmed to be unoccupied by California gnatcatcher, and MM BIO-5 has been completed, then ground disturbance or discing may occur during the nesting season (i.e., between March 1 and August 15). In the event that the focused surveys identify the presence of California gnatcatchers, then ground disturbance or discing of the occupied areas shall be prohibited between March 1 and August 15. If nesting behavior indicative of an active nest is detected within the Project Area, the nest site shall be fenced with a buffer of a minimum of 500 feet in all directions, and this area shall not be disturbed until after the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents and the young have left the area, as confirmed by a qualified biologist. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the</p>		
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	<p>location can be inferred based on observations. A biologist will establish an appropriate no-work buffer until the nest becomes inactive. Routine monitoring of the nest should occur to verify that disturbance to the nest is not occurring. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. Project contractors shall be required to ensure compliance with these requirements and permit periodic inspection of the construction site by City of Menifee staff or its designee to confirm compliance.</p>		
<p>Narrow Endemic Plants</p>	<p>MM-BIO 6: Prior to construction and at the appropriate time of year, a qualified biologist shall conduct focused rare plant surveys in all portions of the Project Area that could support rare plants following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. Surveys must occur during the typical blooming period for all species with the potential to occur within the Project Area as well as those pertaining to the NEPSSA. More than one survey may be necessary to meet this requirement, because</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>blooming periods vary for many plant species. Surveys methods must include 100-percent survey coverage, which can be attained by walking transects spaced appropriately, and no more than 10 meters apart. If any special-status plants are identified, the City shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the City shall mitigate the loss of the plant(s) through land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis.</p>		
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