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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

June 28, 2024
Sent via e-mail

Carlos Flores
Principal Planner
City of Palm Desert
73510 Fred Waring Drive
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Living Desert Expansion Project, CUP/PP/EA 23-0010 (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2024060302

Dear Carlos Flores:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Palm Desert for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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

CDFW ROLE

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

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: The Living Desert Zoo and Gardens

Objective: The Living Desert Zoo and Gardens is proposing an expansion Project (approximately 4 acres) that includes the addition of an event center, entry pavilion, lion habitat, and associated facilities. The Project is an amendment to the previous entitlement for the Living Desert (PP/CUP 15-370), which included a smaller lion habitat and event center. In addition to the lion habitat and event center, the Project introduces a new entry pavilion on the north side of the existing Chase building, which will include a visitor kiosk, outdoor seating areas, and landscaping. The event center includes event space and

[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.

outdoor patio areas and will host events on the weekends or weekdays in the evening. The Project includes a Conditional Use Permit (CUP), Precise Plan (PP), and Environmental Assessment (EA). The CUP is to allow construction of a "Recreation Facility, Commercial" use in the "Public" zone. All Project components occur within the existing Zoo footprint and will not expand the land area of the Living Desert. The Project proposes removing hardscape and landscaping, including removal of 245 mature trees, of which 50 will be salvaged, within the Zoo footprint. Excess dirt will be stockpiled at the Living Desert's maintenance yard. Primary Project activities include site preparation, grading, building construction, paving, architectural coating.

Location: The Living Desert Zoo is located at 47900 Portola Avenue in the City of Palm Desert, in the County of Riverside, State of California. The Project is located on parcels 630-250-045 and 625-300-052 at coordinates 33°41'51.41" N, 116°22'21.42" W. The Project's eastern boundary is adjacent to the Santa Rosa and San Jacinto Mountains Conservation Area of the CVMSHCP.

Timeframe: Project construction is proposed to start on September 1, 2024, and last until December 31, 2025, for an approximate total of 16 months.

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 of Palm Desert in adequately identifying 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 may also be included to improve the document. CDFW is concerned that the MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant.

Project Description

Comment #1: Incomplete Project Description

CEQA is predicated on a complete and accurate description of the proposed Project. Without a complete and accurate Project description, the IS/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 IS/MND (p. 1) states, "The Project is an amendment to the previous entitlement for the Living Desert (PP/CUP 15- 370), which included a smaller lion habitat and event center." However, the previous entitlement was not included in the materials circulated for public review of this Project.

In addition, the IS/MND does not include sufficient information regarding the Project's use of artificial lighting. There is no information available regarding the time-of-day that construction will occur or if the Project's construction activities will require use of artificial nighttime lighting.

Without a complete Project description, CDFW cannot accurately assess the impacts to biological resources that have potential to occur. More information is needed regarding the previous entitlement and the use of artificial nighttime lighting to ensure the impacts of the Project are reduced to a level less than significant.

Environmental Setting

Comment #2: Incomplete 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 with respect to biological resources 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 likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant.

The IS/MND (p. 32) indicates that "there are approximately 245 mature trees in the Project footprint that will be removed, of which 50 trees will be salvaged. The Project area contains a mix of native and decorative landscaping, and does not contain native vegetation communities. A number of common species are expected to currently occur within the Project area, given the extensive use of landscaped areas and gardens within the Zoo." However, the IS/MND does not include a biological assessment of the trees or other vegetation resources within the Project site. CDFW is concerned that special-status bird and bat species may use the 245 mature trees that will be removed. The IS/MND does not disclose the species of trees being removed, which is information that could have helped CDFW evaluate the potential for use by tree-roosting bat species in particular.

Mitigation Measures

Comment #3: Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP)

The Project is located within the CVMSHCP Plan Boundary and outside of a Conservation Area. The IS/MND (p. 33) indicates that the "the subject property is within the boundaries of the CVMSHCP, and the City of Palm Desert is a Permittee to the CVMSHCP."

The Project property is adjacent to the Santa Rosa and San Jacinto Mountains Conservation Area of the CVMSHCP. Therefore, Land Use Adjacency Guidelines per Section 4.5 of the CVMSHCP apply to this Project. The CVMSHCP states in Section 4.5, "The purpose of Land Use Adjacency Guidelines is to avoid or minimize indirect effects from Development adjacent to or within the Conservation Areas. Adjacent means sharing a common boundary with any parcel in a Conservation Area. Such indirect effects are commonly referred to as edge effects, and may include noise, lighting, drainage, intrusion of people, and the introduction of non-native plants and non-native predators such as dogs and cats."

Section 5.2.1.1 of the CVMSHCP indicates that "Local jurisdictions will impose a mitigation fee on new Development within the Plan Area that impacts vacant land containing Habitat for the Covered Species or any of the conserved natural communities in the Plan through adoption, or amendment of an existing fee ordinance. In addition to large vacant areas, this also applies to small vacant lots within urban areas that still contain natural open space." The Project site contains suitable habitat for CVMSHCP Covered Species as discussed on page 32 of the MND; therefore, the City of Palm Desert is required to consult with the Coachella Valley Conservation Commission (CVCC) on the appropriate payment of fees and, if necessary, impose a local development fee for the Project. To document this obligation, CDFW recommends the City of Palm Desert add the following mitigation measure to a revised MND:

Mitigation Measure (MM) BIO-[A]: CVMSHCP Compliance

Prior to construction and issuance of any grading permit, the City of Palm Desert 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.

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 CDFW-recommended MM BIO-[A] through MM BIO-[E] in Attachment 1

Comment #4: 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.).

Permittees of the CVMSHCP must ensure that Covered Activities within their jurisdictions—both inside and outside Conservation Areas—do not take, possess, or needlessly destroy the nest or eggs of nesting birds. Per Section 3.5.6 of the California Department of Fish and Wildlife (CDFW) Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 for the CVMSHCP, "take outside of Conservation Areas will be consistent with sections 3503 and 3503.5 of the Fish and Game Code." Per Section 13.2 of the CVMSHCP Implementing Agreement, County and Cities' obligations include, but are not limited to, taking "all necessary and appropriate actions, following applicable land use permit enforcement procedures and practices, to enforce the terms of project approvals for public and private projects, including compliance with the MSHCP, the Permits and this Agreement."

The IS/MND (p. 32) states "There are approximately 245 mature trees in the project footprint that will be removed, of which 50 trees with be salvaged." The IS/MND (p. 32) acknowledges that "the existing vegetation on-site and adjacent to the site has the potential to provide nesting opportunities for birds covered under the Migratory Bird Treaty Act (MBTA)." CDFW is concerned about the potential for special-status species to occur on or near the Project site. The California Natural Diversity Database (CNDDB) and Biogeographic Information and Observation System (BIOS) indicate that occurrences of ESA-listed, CESA-listed, or other special-status bird species have been reported within a 3-mile radius of the Project area including, but not limited to, the following: Cooper's hawk (*Accipiter cooperii*), crissal thrasher (*Toxostoma crissale*), golden eagle (*Aquila chrysaetos*), loggerhead shrike (*Lanius ludovicianus*), northern harrier (*Circus cyaneus*), peregrine falcon (*Falco peregrinus anatum*), and prairie falcon (*Falco mexicanus*). CVMSHCP modeling data for Covered Species also indicate the potential for the following bird species to occur in the Project area: burrowing owl (*Athene cunicularia*), least Bell's vireo (*Vireo bellii pusillus*), LeConte's thrasher (*Toxostoma lecontei*), southwestern willow flycatcher (*Empidonax traillii extimus*), summer tanager (*Piranga rubra*), yellow breasted chat (*Icteria virens*), and yellow warbler (*Dendroica petechia brewsteri*).

CDFW appreciates the inclusion of MM BIO-1; however, it is insufficient in timing and scope to reduce impacts to nesting birds to less than significant. MM BIO-1 indicates that preconstruction nesting bird surveys would only take place if Project activities occur between January 15 and August 31. 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). CDFW staff have observed that climate change conditions may result in 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 therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds. Conducting work outside the *peak* nesting season is also an important avoidance and minimization measure.

CDFW recommends the revised IS/MND includes specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but are not limited to, Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site be avoided **any time birds are nesting on-site.** Pre-activity nesting bird surveys shall be performed within 3 days prior to Project activities to determine the presence and location of nesting birds. CDFW recommends revising MM BIO-1 as follows (additions in **bold** and deletions in ~~strikethrough~~):

> **MM BIO-1:** ~~Migratory Bird Treaty Act~~ **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. If there are pauses in construction, nesting bird surveys should be repeated prior to Project 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 shall remain onsite until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.** ~~If ground disturbance or tree or plant removal is proposed between January 15th and August 31st, a qualified biologist shall conduct a nesting bird survey within 7 to 10 days of initiation of grading onsite. If active nests are reported, then species-specific measures shall be prepared. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. For construction that occurs between September 1st and January 31st, no pre-removal nesting bird survey is required. - • In the event active nests are found, exclusionary fencing shall be placed around the nests until such time as nestlings have fledged. Avoidance buffers shall be 100 to 300 feet from the nests of unlisted songbirds, and 500 feet from the nests of birds-of-prey and listed species.~~

Comment #5: Special-Status Bats

CNDDB and BIOS indicate the potential for special-status bats within a 3-mile radius of the Project area, including, but not limited to, the following tree-roosting bats: California myotis (*Myotis californicus*), pallid bat (*Antrozous pallidus*), silver-haired bat (*Lasionycteris noctivagans*), Townsend's big-eared bat (*Corynorhinus townsendii*), and western yellow bat (*Lasiurus xanthinus*). The IS/MND does not analyze the potential impacts on tree-roosting bats of the removal of the 245 mature trees in the Project footprint. In addition, no biological surveys appear to have been conducted for the IS/MND, and the tree species to be removed have not been dislcosed. To reduce impacts to special-status bats to less than significant, CDFW recommends that the following mitigation measures be added to a revised MND:

Mitigation Measure BIO-[B]: Bat Surveys and Avoidance of Maternity Roosts and Hibernacula

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

If active maternity roosts are identified in the work area or 500 feet extending from the work area, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed. If active hibernacula are identified in the work area or 500 feet extending from the work area, a minimum 500-foot no-work buffer shall be provided around wintering roosts (hibernacula). The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.

In California, western yellow bats appear to roost exclusively in the skirt of dead fronds of both native and non-native palm trees and appear to be limited in their distribution by availability of palm habitat.[2] Western yellow bats probably form small maternity groups in palm trees.[3] Some individuals or populations may be migratory, although some individuals appear to be present year-round, even in the northernmost portion of the range including southern California.[2] The IS/MND does not include surveys for western yellow bat or other palm-roosting bat species. Because of the potential for harm to bats during tree removal, CDFW recommends that the City add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[C]: Avoidance of Bats during Tree Removal

Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do

[2] Bolster, B.C., Bolster, B.C., (ed.). 1998. Terrestrial Mammal Species of Special Concern in California. Draft Final Report. May. Sacramento, CA. Prepared by Paul W. Collins. Prepared for California Department of Fish and Game, Nongame Bird and Mammal Conservation Program, Sacramento, CA.
[3] Life History Account for Western Yellow Bat, California Department of Fish and Wildlife, February 2008.

not drop below 45˚F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45˚F or less for that evening and the next four evenings), then no tree removals shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.

Comment #6: Construction Noise

CDFW is concerned that the IS/MND does not analyze the impacts of construction noise on biological resources. The IS/MND (p. 59) states, "Project construction will temporarily increase ambient noise levels from the operation of heavy equipment and machinery. Removal of existing hardscapes and landscaping, grading, construction, paving, and other development activities will involve the operation of graders, bulldozers, dump trucks, and similar equipment. Heavy equipment can generate noise levels ranging from 70 to 90 dBA at 50 feet from the source."

Construction may result in substantial noise through road use, equipment, and other Project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 dB (Barber et al. 2009). Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cures (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

Because of the potential for construction noise to negatively impacts wildlife, CDFW recommends a revised MND include a noise impact assessment and an analysis of impacts to biological resources accompanied by specific avoidance and minimization measures to ensure that impacts to wildlife are avoided or reduced to less than significant. CDFW recommends adding the following mitigation measure to a revised MND:

MM BIO-[D]: Construction Noise Impacts to Biological Resources

During all Project construction, the City of Palm Desert shall restrict use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in early morning) and restrict use of generators except for temporary use in emergencies. Power to sites can be provided by solar PV (photovoltaic) systems, cogeneration systems (natural gas generator), small micro-hydroelectric systems, or small wind turbine systems. The City of Palm Desert shall ensure the use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.

Comment #7: Artificial Nighttime Lighting

The IS/MND (p. 3) indicates that the event center, with event space and outdoor patio areas, will be used to hold events on weekends and weekdays in the evening. However, impacts to biological resources resulting from the use of artificial nighttime lighting during operations and construction are not analyzed, and no mitigation measures are proposed. Designs for artificial lighting to be used during construction and operation of the Project should be included in a revised MND. The direct and indirect impacts of artificial nighttime

lighting on biological resources including migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife should be analyzed, and appropriate avoidance and minimization measures to reduce impacts to less than significant should be included in a revised MND.

Artificial nighttime lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation (Gatson et al. 2013). Many species use photoperiod cues for communication (e.g., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

Because of the potential for artificial nighttime light to negatively impact wildlife, CDFW recommends a revised MND include details of the use of artificial nighttime lighting proposed for construction and operation of the Project and an analysis of impacts to biological resources, as well as specific avoidance and minimization measures to ensure that impacts to wildlife are reduced to less than significant. CDFW recommends the City of Palm Desert include the following mitigation measure in a revised MND:

> **MM BIO-[E]: Artificial Nighttime Light**
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> **During Project construction and operation, the City of Palm Desert shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. The City of Palm Desert shall ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The City of Palm Desert 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.**

Comment #8: Landscaping

The IS/MND indicates that landscaping will be incorporated in the Project; however, details are not provided. To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in any project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at CALSCAPE: https://calscape.org/. Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: https://saveourwater.com/. 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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist City of Palm Desert in identifying and mitigating Project impacts on biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the MND lacks sufficient information for a meaningful review of impacts to biological resources, including a complete Project description, information about the environmental setting, analysis of impacts to tree-roosting bats, and plans for use of artificial light at night. The CEQA Guidelines indicate that recirculation is required when a new significant effect is identified and additional mitigation measures are necessary (§ 15073.5). CDFW recommends that a revised MND 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.

Questions regarding this letter or further coordination should be directed to Julia Charpek, Environmental Scientist, at 909.354.0937 or Julia.Charpek@wildlife.ca.gov .

Sincerely,

DocuSigned by:
Heather Brashear
4ADE68D237B0401...

for

Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
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Attachment 1: Mitigation Monitoring and Reporting Program (MMRP) for Biological Resources

Mitigation Measure (MM) Description	Implementation Schedule	Responsible Parties
MM BIO-[A]: CVMSHCP Compliance Prior to construction and issuance of any grading permit, the City of Palm Desert 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.	Prior to construction and issuance of any grading permit	City of Palm Desert
MM BIO-1: 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. If there are pauses in construction, nesting bird surveys should be repeated prior to Project 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 shall remain onsite 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.	No more than 3 days prior to vegetation clearing or ground-disturbing activities	City of Palm Desert
MM BIO-[B]: Bat Surveys and Avoidance of Maternity Roosts and Hibernacula	**Surveys:** Prior to Project construction activities	City of Palm Desert

Prior to the initiation of Project activities within suitable bat roosting habitat, the City shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. If active maternity roosts are identified in the work area or 500 feet extending from the work area, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed. If active hibernacula are identified in the work area or 500 feet extending from the work area, a minimum 500-foot no-work buffer shall be provided around wintering roosts (hibernacula). The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.	**Avoidance:** See mitigation measure for details	
MM BIO-[C]: Avoidance of Bats during Tree Removal Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45˚F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45˚F or less for that evening and the next four evenings), then no tree removals shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.	See mitigation measure for details	City of Palm Desert
MM BIO-[D]: Construction Noise Impacts to Biological Resources During all Project construction, the City of Palm Desert shall restrict use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in early morning) and restrict use of generators except for temporary use in emergencies. Power to sites can be provided by solar PV (photovoltaic) systems, cogeneration systems (natural gas generator), small micro-hydroelectric systems, or small wind turbine	During all Project construction	City of Palm Desert

systems. The City of Palm Desert shall ensure the use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.		
MM BIO-[E]: Artificial Nighttime Light During Project construction and operation, the City of Palm Desert shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. The City of Palm Desert shall ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The City of Palm Desert 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.	Throughout construction and the lifetime operations of the Project	City of Palm Desert