



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

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



July 22, 2024  
*Sent via email*

Sandra Molina  
Deputy Director of Community and Economic Development  
City of Cathedral City  
68-700 Avenida Lalo Guerrero  
Cathedral City, CA 92234  
[smolina@cathedralcity.gov](mailto:smolina@cathedralcity.gov)

Rosemount Storage SPA 98-55-A / DR 23-003 (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2024070082

Dear Sandra Molina:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Mitigated Negative Declaration (MND) from the City of Cathedral City (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

## **CDFW ROLE**

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

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

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:** Three Mile Hollow

**Objective:** The proposed Project includes full development of the site under two different buildout scenarios. Scenario 1 contemplates a self-storage facility with various retail and restaurants with a total square footage of 133,243 square feet, whereas Scenario 2 contemplates self-storage facility, retail, and a grocery store/big box retail building with a total area of 169,779 square feet. All scenarios will have on-site landscaping, on-site parking, signage, low walls along frontage, and underground retention basin for on-site water retention. No import or export of soil is required. All construction equipment and construction worker vehicles would be staged (parked) on-site during construction.

The site would be landscaped with various native and non-native evergreen and deciduous trees that would be placed throughout the site, including all parking areas. The proposed Project would include freestanding lights with a maximum height of 18 feet located around the parking lot areas, as well as building lights. All lighting would be shielded to prevent light spillover onto adjacent areas.

**Location:** The proposed Project is located on the east side of Date Palm Drive, between McCallum Way to the south and future extension of Rosemount Road to the north in the City of Cathedral City, County of Riverside. The 7.16-acre Project site is located within Assessor's Parcel Numbers 670-110-048, 670-110-049, 670-110-050, 670-110-051, 670-110-052, 670-110-053, and 670-110-056.

**Timeframe:** The MND indicates that Project construction is anticipated to take approximately 15 months with estimated completion in early 2025.

## **COMMENTS AND RECOMMENDATIONS**

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. CDFW is concerned that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW requests that additional information and analyses be added to a revised MND, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to less than significant.

### Mitigation Measures

CEQA requires that an MND include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the City in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for burrowing owl, artificial nighttime lighting, salvage of sand-dependent Covered Species, and Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) compliance, as well as revising the mitigation measure for nesting birds.

#### **1) 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.”

Page 5 of the Project’s Habitat Assessment and CVMSHCP Consistency Analysis (Biological Assessment) indicates that the “project site [and] surrounding area have the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that could occur in the area that area adapted to urban environments.” The MND includes Mitigation Measure BIO-1, which states that “if construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction.” CDFW considers Mitigation Measure BIO-1 to be insufficient in scope and timing to reduce impacts to nesting birds to a level less than significant. CDFW is concerned about impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction. Conducting work outside the peak nesting season is an important avoidance and minimization measure. CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to ensure that impacts to nesting birds are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017<sup>2</sup>). CDFW staff have observed that climate change conditions may result in 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.

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

To support the Project in reducing impacts to nesting birds to a level less than significant, CDFW recommends that the City revise Mitigation Measure BIO-1 with the following additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-1: Nesting Birds**

**Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.**

~~Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.3, 3511, and 3513 of the California Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs). In order to protect migratory bird species, a nesting bird clearance survey shall be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season. Consequently, if avian nesting behaviors are disrupted, such as nest abandonment and/or loss of reproductive effort, it is considered "take" and is potentially punishable by fines and/or imprisonment. If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the preconstruction clearance survey, construction activities shall stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of noise and/or surrounding anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing~~

~~buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.~~

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

Burrowing owl is a California Species of Special Concern. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

Permittees of the CVMSHCP must ensure that Covered Activities within their jurisdictions—both inside and outside Conservation Areas—do not result in the take of the burrowing owl individuals, nests, or eggs. 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.” Adding further clarification, Section 3.5.6 of CDFW’s NCCP Permit indicates that “following all laws applicable to migratory birds (discussed below), the pairs or individuals will not be Taken, just the land around and including the burrows”, and “the HCP/NCCP does not authorize Take of nests and eggs as prohibited by Fish and Game Code sections 3503 and 3503.5 and therefore avoidance measures will have to be undertaken for all projects which have breeding burrowing owls present.” An activity that results in the take of burrowing owl individuals, nests, or eggs would be unlawful and would not be a Covered Activity under the CVMSHCP. 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 City has an obligation under the CVMSHCP to ensure the Project does not result in the take of burrowing owl individuals, nests, and eggs.

Page 9 of the Project’s Biological Assessment states that “despite a systematic search of the project site, no burrowing owls or sign (i.e., pellets, feathers, castings, or whitewash) were observed during the field investigation. Several small mammal

burrows that have the potential to provide suitable burrowing owl nesting habitat (>4 inches in diameter) were observed within the boundaries of the site. Based on this information, and as a result of current and historic on-site disturbances, and surrounding development, it was determined that burrowing owls do not have potential to occur, and no focused surveys are recommended.” Table D-1 of the Project’s Biological Assessment indicates that “the Project site provides line-of-sight opportunities favored by burrowing owls; however, no suitable burrows (>4 inches) were observed.” The MND and its supporting documents contain inconsistent information on the presence of suitable burrows for burrowing owls located within the Project site. Also, the MND and Biological Assessment lack a discussion of the methods used to conduct surveys for burrowing owl and if focused surveys, conducted independently of other surveys, were completed. CDFW recommends that a habitat assessment and focused surveys for burrowing owl are conducted independently of other biological survey activities. Given the MND’s lack of findings from a recent habitat assessment and focused surveys for burrowing owl following the guidelines in the *Staff Report on Burrowing Owl Mitigation*,<sup>3</sup> the number of suitable and occupied burrows within the Project site and surrounding areas is unknown. CDFW recommends the MND is revised to include the findings from focused burrowing owl surveys following the guidelines in the *Staff Report on Burrowing Owl Mitigation* along with appropriate avoidance, minimization, and mitigation measures.

Based on review of historical aerial and street imagery using Google Earth Pro, the Project site and surrounding open-space areas to the north contain sparse vegetation cover that is suitable nesting and foraging habitat for burrowing owl. CDFW notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few shrubs,<sup>4</sup> and that burrowing owls may occur in ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat proximity.<sup>5</sup> In addition, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats.<sup>6,7</sup> Because the Project site contains suitable habitat for

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<sup>3</sup> California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

<sup>4</sup> Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. Burrowing owl (*Speotyto cunicularia*), in A. Poole and F. Gill, editors, The Birds of North America, The Academy of Natural Sciences, Philadelphia, Pennsylvania, and The American Ornithologists’ Union, Washington, D.C., USA.

<sup>5</sup> Gervais, J. A., D. K. Rosenberg, R. G. Anthony. 2003. Space use and pesticide exposure risk of male burrowing owls in an agricultural landscape. *Journal of Wildlife Management* 67: 155-164.

<sup>6</sup> Chipman, E. D., N. E. McIntyre, R. E. Strauss, M. C. Wallace, J. D. Ray, and C. W. Boal. 2008. Effects of human land use on western burrowing owl foraging and activity budgets. *Journal of Raptor Research* 42(2): 87-98.

<sup>7</sup> Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162–176.

burrowing owl, and the number of suitable and occupied burrows within the Project site is uncertain, CDFW disagrees with the conclusion in the MND and Biological Assessment that focused burrowing owl surveys are not recommended. To support the Project in reducing impacts to burrowing owl to a level less than significant, CDFW recommends the City add the following mitigation measure to a revised MND:

#### **Mitigation Measure BIO-[A]: Burrowing Owl Surveys**

**Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012 or most recent version) prior to vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.**

**Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.**



### **3) Artificial Nighttime Lighting**

The proposed Project will result in new sources of artificial nighttime lighting, including “freestanding lights with a maximum height of 18 feet located around the parking lot areas, as well as building lights. All lighting would be shielded to prevent light spillover onto adjacent areas” (page 9 of the MND). The Project is located adjacent to open-space areas to the north and across Date Palm Drive to the west of the Project site—areas that provide suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife. The Project’s proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in the open-space areas adjacent to the Project site. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation.<sup>8</sup> Many species use photoperiod cues for communication (e.g., bird song<sup>9</sup>), determining when to begin foraging,<sup>10</sup> behavioral thermoregulation,<sup>11</sup> and migration.<sup>12</sup> Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.<sup>14</sup>

Page 9 of the MND indicates that “all lighting would be shielded to prevent light spillover onto adjacent areas”. While these plans for shielding artificial nighttime lighting support the Project in limiting lighting impacts to biological resources within areas surrounding the Project site, CDFW considers these measures insufficient in scope and timing to reduce impacts to a level less than significant. To support the City in avoiding or reducing impacts of artificial nighttime lighting on biological resources to less than significant, CDFW recommends the City add the following mitigation measure to a revised MND:

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

**Throughout construction and the lifetime operations of the Project, the City of Cathedral City and Project proponent shall eliminate all nonessential lighting**

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

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

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

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

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

throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of Cathedral City and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). The City of Cathedral City and Project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

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

##### Salvage of Sand-Dependent Covered Species

Section 6.6.1 of the CVMSHCP (Obligations of Local Permittees) states that within and outside Conservation Areas “on parcels approved for Development, the Permittees shall encourage the opportunity to salvage Covered sand-dependent species in accordance with the Implementation Manual.” Page 10 of the Project’s Biological Assessment indicates that the “CVMSHCP identifies modeled habitat for Coachella Valley milk-vetch [(*Astragalus lentiginosus*)], Palm Springs pocket mouse (*Perognathus longimembris bangsi*), fat-tailed horned lizard (*Phrynosoma mcallii*), Le Conte’s thrasher (*Toxostoma lecontei*), Coachella Valley fringe-toed lizard (*Uma inornata*), and Coachella Valley round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*) as occurring within the Project site.” Many of these species, including, but not limited to, Coachella Valley milk-vetch, Palm Springs pocket mouse, fat-tailed horned lizard, and Coachella Valley fringe-toed lizard are sand-dependent Covered Species. To be consistent with the CVMSHCP, CDFW recommends that the City include in a revised MND the following mitigation measure:

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

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

##### Local Development Mitigation Fee

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.” The Project

site contains CVMSHCP modeled habitat for several Covered Species, as discussed on page 10 of the Biological Assessment, and contains suitable habitat for burrowing owl; therefore, the City is required to impose a local development fee for the Project. To document this obligation, CDFW recommends the City add the following mitigation measure to a revised MND:

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

**Prior to construction and issuance of any grading permit, the City of Cathedral City 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.**

#### **5) *Landscaping***

Page 8 of the MND indicates that the “site would be landscaped with a variety of plants that are native and indigenous to California’s climatic conditions and require low and medium water use. The proposed trees would include various evergreen and deciduous trees, such as: California Fan Palms, Palo Verdes, Live Oaks, African Sumacs, Shoestring Acacias, Desert Willows, Crape Myrtles, and Ironwood trees which would be placed throughout the site, including all parking areas.” CDFW recommends incorporation of water-wise concepts in any Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants. More information on native plants suitable for the Project location and nearby nurseries is available at Calscape: <https://calscape.org/>. Local water agencies/cities and resource conservation cities in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California’s Save our Water website: <https://saveourwater.com/>. CDFW also recommends that the MND include recommendations regarding landscaping from Section 4.0 of the CVMSHCP “Table 4-112: Coachella Valley Native Plants Recommended for Landscaping” (pp. 4-180 to 4-182; <https://cvmshcp.org/plan-documents/>).

#### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, §

Sandra Molina, Deputy Director of Community and Economic Development  
City of Cathedral City  
July 22, 2024  
Page 12

21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**


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

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

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

Sincerely,

DocuSigned by:  
  
4ADE68D237B0401...

for  
Kim Freeburn  
Environmental Program Manager

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

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW

Sandra Molina, Deputy Director of Community and Economic Development  
 City of Cathedral City  
 July 22, 2024  
 Page 13

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Vincent James, U.S. Fish and Wildlife Service  
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Peter Satin, Coachella Valley Conservation Commission  
[psatin@cvag.org](mailto:psatin@cvag.org)

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

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-1: Nesting Birds</b></p> <p>Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the</p>	<p><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Cathedral City and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Cathedral City</p>

<p>authority to stop work if nesting pairs exhibit signs of disturbance.</p>		
<p><b>Mitigation Measure BIO-[A]: Burrowing Owl Surveys</b></p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG, 2012 or most recent version) prior to vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG, 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl</i></p>	<p><b>Timing: Focused surveys:</b> Prior to vegetation removal or ground-disturbing activities. <b>Pre-construction surveys:</b> No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Cathedral City and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Cathedral City</p>

<p><b>Mitigation.</b> If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p><b>Mitigation Measure BIO-[B]: Artificial Nighttime Lighting</b></p> <p>Throughout construction and the lifetime operations of the Project, the City of Cathedral City and Project proponent shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of Cathedral City and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <a href="http://darksky.org/">http://darksky.org/</a>). The City of Cathedral City and Project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</p>	<p><b>Timing:</b> Throughout construction and the lifetime operations of the Project.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Cathedral City and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Cathedral City</p>
<p><b>Mitigation Measure BIO-[C]: Salvage of Sand-Dependent Covered Species</b></p> <p>Prior to vegetation removal or ground-disturbing activities, the City of Cathedral City will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site</p>	<p><b>Timing:</b> Prior to vegetation removal of ground-disturbing activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Cathedral City and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Cathedral City</p>
<p><b>Mitigation Measure BIO-[D]: CVMSHCP Compliance</b></p> <p>Prior to construction and issuance of any grading permit, the City of Cathedral City 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</p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit</p>	<p><b>Implementation:</b> City of Cathedral City and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Cathedral City</p>

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City of Cathedral City  
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Page 16

<b>Local Development Mitigation Fee and transfer of revenues to the Coachella Valley Conservation Commission.</b>	<b>Methods:</b> See Mitigation Measure	
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