



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 13, 2024

Jocelyn Swain
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
jswain@cityoflanasterca.org

SUBJECT: CONDITIONAL USE PERMIT No. 21-001, MITIGATED NEGATIVE DECLARATION, SCH #2024080570, LOS ANGELES COUNTY, CA

Dear Jocelyn Swain:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the City of Lancaster (City; Lead Agency) for Conditional Use Permit No. 21-001 (Project). 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's 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.

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

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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.

PROJECT DESCRIPTION SUMMARY

Proponent: Westlanc Partners, LLC

Objective: The Project proposes the construction and operation of a mixed-use development. Full development of the site would consist of a 235-room hotel; two apartment buildings; three concrete pads totaling 12,800 square feet for restaurant/retail use, and a 3,800 square-foot club house associated with the hotel. Both apartment buildings would be constructed along 15th Street West and have a total of 181 units. The hotel would be constructed along the southern boundary of the site. Moreover, the three concrete pads would be constructed either along the front of West Avenue L or the eastern boundary of the site. The club house and pool area would be constructed in the eastern portion of the site. Ingress and egress to the Project site would occur via two driveways located on 15th Street West. In the center of the development, 799 parking spaces would be installed. Parking associated with the apartments and hotel would be provided underground. Landscaping would be installed along the perimeter and throughout the Project site. Street improvements would also occur along West Avenue L and 15th Street West. Additionally, a tentative tract map, general plan amendment, and zone change would need to be approved. The tentative tract map would subdivide the property into six parcels. The general plan designation would change from non-urban residential to mixed use and the zoning would change from rural residential to mixed-use commercial.

Location: The 10-acre Project site is located in the southeast corner of West Avenue L and 15th Street West within the City. The Project site is bound by West Avenue L to the north, Highway 14 to the east, 15th Street West to the west, and West Avenue L4 to the south. The Assessor's Parcel Numbers associated with the Project site include 3109-026-032, 3109-026-040, 3109-025-042, and 3109-026-044.

Biological Setting: The Project site is located in an urbanized area of the City and exhibits signs of human disturbance (e.g., historical grading and trash dumping). General field surveys were conducted on May 4 and 5, 2023, and findings were compiled in a Biological Resources Report (BRR). During the surveys, a Phase I clearance survey was conducted for (*Athene cunicularia*, a California Species of Concern (SSC)). The vegetation on site consist of several species of exotic weeds along the property boundary with native vegetation in the center of the site. Native vegetation includes western Joshua trees (*Yucca brevifolia*; CESA candidate species), four-wing saltbrush (*Atriplex canescens*), and rabbitbrush (*Ericameria nauseosa*). Aside from approximately 28 western Joshua trees, no special-status plant species were observed. No hydrological features were observed on site. There is a concrete lined

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channel along the eastern boundary that is fenced off from the Project site. A total of 16 wildlife species were recorded during the survey; however, the Project site contains suitable habitat to support burrowing owl, northern California legless lizard (*Anniella pulchra*, SSC), and migratory birds and raptors. Mitigation measures to avoid, minimize, and/or mitigate adverse Project impacts to western Joshua trees, migratory birds, and burrowing owl are incorporated into the MND.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately avoiding and/or mitigating the Project's impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the 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).

Comment #1: Impacts on Burrowing Owl

Issue: Mitigation Measure 4, as currently written, does not provide compensatory mitigation for loss of suitable habitat or effectively avoid impacts toward burrowing owl.

Specific impacts: Project ground-disturbing activities such as vegetation removal will result in habitat loss and may lead to death or injury of individuals. Project construction activities may also disrupt foraging behavior for over-wintering burrowing owl present on site.

Why impact would occur: Urban development in Antelope Valley contributes to the ongoing loss of suitable habitat for burrowing owls and rapid decline of the burrowing owl population size on a regional scale. Due to various factors, including habitat loss and population decline, burrowing owls were recently petitioned to be listed as an endangered or threatened species under CESA by the Center of Biological Diversity (CBD 2024). According to the [California Natural Diversity Database \(CNDDDB\)](#), burrowing owl has been historically observed near the Project site (CDFW 2024a). Additionally, California ground squirrel burrows were observed during general surveys, which have been frequently utilized by burrowing owls during the breeding and overwintering season.

The MND acknowledges burrowing owls may be present during Project activities and provides Mitigation Measure 4. Mitigation Measure 4 describes a preconstruction survey will be conducted prior to activities. CDFW concurs that a preconstruction burrowing owl survey should be conducted; however, the mitigation measure does not include specific compensatory mitigation that outlines replacement of suitable burrowing owl habitat. Removal of suitable habitat would result in the Project's contribution to ongoing loss of suitable habitat for this SSC. In addition to no proposed compensatory mitigation, the

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mitigation measure is conditioned that the qualified biologist will provide a plan for CDFW review once it has been determined that avoidance is not possible. Given that burrowing owls are SSC and attempts to avoid the species may disturb or distress individual owls, encroach on active burrows, and cause owls to temporarily flush, coordination with CDFW should occur immediately after burrowing owl presence has been confirmed.

Evidence impact would be significant: 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. 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.” In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, that can be shown to meet the criteria for listing as endangered, rare, or threatened (CEQA Guidelines, § 15380(d)). Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Mitigation Measure 4 – The City shall revise Mitigation Measure 4 to incorporate the underlined language and omit language in strikethrough:

A pre-construction burrowing owl clearance survey shall be conducted no more than ~~30~~ 14 days prior to any vegetation removal or ground disturbing activities to avoid impacts to burrowing owls and/or occupied burrows. The pre-construction clearance survey shall be conducted by a qualified biologist and in accordance with the methods outlined in the Staff Report on Burrowing Owl Mitigation (CDFG 2012). Documentation of surveys and findings shall be submitted to the City of Lancaster for review and file. If no burrowing owls or occupied burrows are detected, project activities may begin, and no additional avoidance and minimize measures shall be required.

If an occupied burrow is found outside, but within 500 feet, of the development footprint, the qualified biologist shall establish a “no-disturbance” buffer around the burrow location(s). The size of the “no-disturbance” buffer shall be determined in consultation with CDFW and be based on the species status (i.e., breeding, non-breeding) and proposed level of disturbance. If an occupied burrow is found within the development footprint, the qualified biologist shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with CDFW’s Staff Report on Burrowing Owl Mitigation. The Project proponent shall contact CDFW to develop appropriate mitigation and management procedures and a final Burrowing Owl Mitigation Plan shall be submitted to the City and CDFW for review and approval prior to Project activities. ~~and cannot be avoided, a burrowing owl exclusion and mitigation plan shall be prepared and submitted to CDFW for approval prior to initiating project activities.~~

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If burrowing owl presence is confirmed, the Project proponent shall offset impacts by acquiring CDFW-approved mitigation lands for the species. The potential mitigation land shall have the following: 1) have presence of burrowing owl; 2) replace the impacted burrowing owl habitat area at a minimum of 2:1 ratio to ensure no net loss of habitat; and 3) be of equivalent or greater habitat value than that of the Project site. Prior to acquisition of potential mitigation land, the Project proponent shall provide CDFW with the appropriate documentation for property eligibility. Requested documentation may include, but is not limited to, a biological report, preliminary title report, mineral risk assessment report, and Phase I Environmental Site Assessment report. Following CDFW written approval of potential mitigation land, the Project proponent shall protect the land in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment, to be determined by CDFW, shall also be provided for the long-term monitoring and management of mitigation lands.

Comment #2: Impacts on Northern California Legless Lizard

Issue: The Project may impact northern California legless lizard.

Specific Impact: Direct impacts to northern California legless lizard could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic. Indirect impacts could result from temporary or permanent loss of suitable habitat.

Why impact would occur: Northern California legless lizard occur in sparsely vegetated areas such as desert scrub. The leaf litter underneath the trees and shrubs on site provide suitable habitat for this SSC (California Herps 2024). According to CNDDDB, there are several observations of northern California legless lizard within two miles of the Project site. While there is potential for northern California legless lizard, the MND does not provide a mitigation measure that outlines avoidance and minimization actions to avoid injury or mortality of northern California legless lizard during Project activities. Project ground-disturbing activities such as vegetation removal would result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. Additionally, the MND and BRR does not outline compensatory mitigation if presence of this SSC is confirmed. Given that habitat loss on a local and regional scale is a major cause of population decline for SSC, removal of confirmed SSC habitat would be considered a significant impact and should be mitigated appropriately.

Evidence impact would be significant: A California Species of Special Concern 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:

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- 1) if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- 2) if the species is listed as threatened or endangered under ESA-, but not CESA-, threatened, or endangered;
- 3) if the species meets the State definition of threatened or endangered but has not formally been listed;
- 4) if the species 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,
- 5) if 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 2024b).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that 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). The MND does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #2: Pre-Construction Survey – Within 72 hours of Project-related activities, a qualified biologist with the appropriate handling permits shall conduct a survey to determine presence of northern California legless lizard. The qualified biologist shall survey the proposed impact areas and a 50-foot buffer. Surveys shall incorporate appropriate methods to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil prior to any Project activities in areas that have or may have the potential to support these species. If a special-status species is found, the qualified biologist shall contact CDFW, and the species shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires SCC to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring.

Mitigation Measure #3: Compensatory Mitigation - For SSC that have been confirmed and/or are expected to occur within the Project site, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC (CEQA Guidelines, § 15370(e)). Compensatory mitigation shall be provided within the Project

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boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

Mitigation Measure #4: Injured or Dead Wildlife – If any special status wildlife species are found, harmed during relocation, or a dead or injured animal is found, work in the immediate area shall stop immediately, the designated biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within 3 calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Comment #3: Impacts on Nesting Birds and Raptors

Issue: The mitigation measure proposed in the MND may not be sufficient to minimize Project impacts on nesting birds and raptors.

Specific Impact: Project activities (i.e., vegetation removal, grading, construction) may result in mortality or injury to individual birds and raptors present within the Project site. Additionally, Project activities during breeding season of nesting birds could result in nest abandonment and/or incidental loss of fertile eggs or nestlings.

Why impact would occur: Various bird species were observed during the general survey. While no nests were present on site, it is likely that during the breeding season nests may be found on the ground, in western Joshua trees, or under small shrubs. The MND provides Mitigation Measure 3, which describes a minimum buffer of 50 feet would be placed around active bird nests. With a buffer of 50 feet, eggs and nestlings may continue to be impacted by noise disturbances, increased human activity, increased lighting, dust, vegetation clearing, ground-disturbing activities (e.g., staging, access, grading), and vibrations caused by heavy equipment. If a buffer zone is not appropriately sized, any active nests may also be encroached upon or destroyed. Moreover, Project activities in close proximity to an active nest may result in incidental take of individual eggs or nestlings within the nest. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable foraging habitats. The MND should revise the mitigation measure with actions that would ensure the Project does not result in incidental take of individuals or active nests.

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Evidence impact would be significant: 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.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #5: Mitigation Measure 3 – The City shall revise Mitigation Measure 3 to incorporate the underlined language and omit language in strikethrough:

Project activities shall occur outside the nesting season for migratory birds and raptors (February 1 through September 15, as early as January 1 for some raptors). If Project activities occur during or close to the nesting season, a A nesting bird and raptor survey shall be conducted by a qualified biologist within 744 days prior to the start of construction/ground disturbing activities. The qualified biologist shall survey the entire Project site and areas within a biologically defensible buffer zone surrounding the Project site. If Project activities are delayed or suspended for more than 7 days during the nesting season, the nesting bird and raptor survey shall be repeated. If active bird nests are identified during the survey, the species shall be identified, and a no-disturbance buffer shall be established around the active nest. the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements. Impacts to nesting birds will be avoided by delay of work or establishing At a minimum, a buffer of 500 feet around active raptor nests and 100 50 feet around other migratory bird species nests. Personnel working on the Project, including all contractors working onsite, shall be instructed on the presence of nesting birds, restricted areas, and adherence to no-disturbance buffers. A qualified biologist shall periodically monitor any active bird nests to determine if project-related activities occurring outside the “no-disturbance” buffer disturbs the birds and if the buffer shall be increased. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities within the “no-disturbance” buffer may occur following an additional survey by the qualified biologist to search for any new bird nests in the restricted area.

Additional Comments

Western Joshua Trees. The MND states that there are western Joshua trees within the Project site and provides Mitigation Measure 2 for the Project proponent to obtain a Western Joshua Tree Conservation Act permit. It is unclear whether all of the western Joshua trees would be removed, or some will remain in place as part of landscaping. CDFW recommends the MND be revised to state the total number of trees proposed for removal and if any will remain on site.

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Landscaping. The Project proposes to install landscaping throughout the Project site. CDFW recommends the City incorporate a planting palette in the MND of the native vegetation that be used as landscaping for this Project. The Project proponent should use only native species found in naturally occurring vegetation communities within or adjacent to the Project site. The Project proponent should not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, CDFW recommends the Project proponent restrict use of any species, particularly 'moderate' or 'high' listed by the [California Invasive Plant Council](#) (Cal-IPC 2024). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.

Lighting Design. During the operational phase of the Project, night lights installed throughout the Project site may impact wildlife occupying the adjacent vacant land. CDFW recommends the Project proponent incorporates methods that would minimize adverse effects of artificial night lighting. These methods may include but is not limited to directing outside lights downward and away from vacant land, limiting night lighting use, and using the lowest possible correlated color temperature for the goal of the lighting.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB], which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB Online Field Survey Form](#) (CDFW 2024c). The Project proponent should ensure that data was submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project proponent should provide CDFW with confirmation of data submittal.

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

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Plan (MMRP; Attachment A).

Filing Fees

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

Conclusion

CDFW appreciates the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)].

Questions regarding this letter or further coordination should be direct to [Julisa Portugal](#)¹, Environmental Scientist, at (562) 330-7563.

Sincerely,

DocuSigned by:



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Victoria Tang

Environmental Program Manager
South Coast Region

ec: California Department of Fish and Wildlife
Jennifer Turner
Steve Gibson
Cooper Wall
Frida Diaz-Barriga
Cindy Hailey

References:

California Herps. 2024. Northern Legless Lizard – *Anniella pulchra*. Available at:
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¹ Julisa.Portugal@wildlife.ca.gov

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 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
wildlife.ca.gov

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.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1 – Mitigation Measure 4	<p>A pre-construction burrowing owl clearance survey shall be conducted no more than 14 days prior to any vegetation removal or ground disturbing activities to avoid impacts to burrowing owls and/or occupied burrows. The pre-construction clearance survey shall be conducted by a qualified biologist and in accordance with the methods outlined in the Staff Report on Burrowing Owl Mitigation (CDFG 2012). Documentation of surveys and findings shall be submitted to the City of Lancaster for review and file. If no burrowing owls or occupied burrows are detected, project activities may begin, and no additional avoidance and minimize measures shall be required.</p> <p>If an occupied burrow is found outside, but within 500 feet, of the development footprint, the qualified biologist shall establish a “no-disturbance” buffer around the burrow location(s). The size of the “no-disturbance” buffer shall be determined in consultation with CDFW and be based on the species status (i.e., breeding, non-breeding) and proposed level of disturbance. If an occupied burrow is found within the development footprint, the qualified biologist shall prepare an Impact Assessment and</p>	<p>Prior to issuance of City permits</p>	<p>Project Proponent/ Qualified Biologist</p>

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	<p>Burrowing Owl Mitigation Plan in accordance with CDFW's Staff Report on Burrowing Owl Mitigation. The Project proponent shall contact CDFW to develop appropriate mitigation and management procedures and a final Burrowing Owl Mitigation Plan shall be submitted to the City and CDFW for review and approval prior to Project activities.</p> <p>If burrowing owl presence is confirmed, the Project proponent shall offset impacts by acquiring CDFW-approved mitigation lands for the species. The potential mitigation land shall have the following: 1) have presence of burrowing owl; 2) replace the impacted burrowing owl habitat area at a minimum of 2:1 ratio to ensure no net loss of habitat; and 3) be of equivalent or greater habitat value than that of the Project site. Prior to acquisition of potential mitigation land, the Project proponent shall provide CDFW with the appropriate documentation for property eligibility. Requested documentation may include, but is not limited to, a biological report, preliminary title report, mineral risk assessment report, and Phase I Environmental Site Assessment report. Following CDFW written approval of potential mitigation land, the Project proponent shall protect the land in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment, to be determined by</p>		
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	CDFW, shall also be provided for the long-term monitoring and management of mitigation lands.		
MM-BIO-2 – Pre-construction Survey	Within 72 hours of Project-related activities, a qualified biologist with the appropriate handling permits shall conduct a survey to determine presence of northern California legless lizard. The qualified biologist shall survey the proposed impact areas and a 50-foot buffer. Surveys shall incorporate appropriate methods to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil prior to any Project activities in areas that have or may have the potential to support these species. If a special-status species is found, the qualified biologist shall contact CDFW, and the species shall be passively ushered out of harm’s way to an area that is unaffected by the Project. If the Project requires SCC to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring.	Prior to and during Project activities	Qualified Biologist
MM-BIO-3- Compensatory Mitigation	For SSC that have been confirmed and/or are expected to occur within the Project site, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports	Prior to issuance of City permits	Project Proponent

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	<p>that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.</p>		
<p>MM-BIO-4- Injured/Dead Wildlife</p>	<p>If any special status wildlife species are found, harmed during relocation, or a dead or injured animal is found, work in the immediate area shall stop immediately, the designated biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within 3 calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.</p>	<p>During Project activities</p>	<p>Qualified Biologist</p>
<p>MM-BIO-5- Mitigation Measure 3</p>	<p>Project activities shall occur outside the nesting season for migratory birds and raptors (February 1 through September 15, as early as January 1 for some raptors). If Project activities occur during or close to the nesting season, a nesting bird and raptor survey shall be conducted by a qualified biologist within 7 days prior to the start of construction/ground disturbing activities. The</p>	<p>Prior and during Project activities</p>	<p>Qualified Biologist</p>

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	<p>qualified biologist shall survey the entire Project site and areas within a biologically defensible buffer zone surrounding the Project site. If Project activities are delayed or suspended for more than 7 days during the nesting season, the nesting bird and raptor survey shall be repeated. If active bird nests are identified during the survey, the species shall be identified, and a no-disturbance buffer shall be established around the active nest. At a minimum, a buffer of 500 feet around active raptor nests and 100 feet around migratory bird species nests. Personnel working on the Project, including all contractors working onsite, shall be instructed on the presence of nesting birds, restricted areas, and adherence to no-disturbance buffers. A qualified biologist shall periodically monitor any active bird nests to determine if project-related activities occurring outside the “no-disturbance” buffer disturbs the birds and if the buffer shall be increased. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities within the “no-disturbance” buffer may occur following an additional survey by the qualified biologist to search for any new bird nests in the restricted area.</p>		
<p>REC 1 – Western Joshua Tree Revision</p>	<p>CDFW recommends the MND be revised to state the total number of trees proposed for removal and if any will remain on site.</p>	<p>Prior to adopting CEQA document</p>	<p>Lead Agency</p>
<p>REC 2 – Landscaping</p>	<p>CDFW recommends the City incorporates a planting palette in the MND of the native vegetation that be used as landscaping for this Project. The Project proponent use only native species found in naturally occurring vegetation communities within or adjacent to the Project site. The</p>	<p>Prior to adopting CEQA document</p>	<p>Lead Agency/ Project Proponent</p>

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	<p>Project proponent should not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, CDFW recommends the Project proponent restrict use of any species, particularly 'moderate' or 'high' listed by the California Invasive Plant Council.</p>		
<p>REC 3 – Lighting Design</p>	<p>CDFW recommends the Project proponent incorporates methods that would minimize adverse effects of artificial night lighting. These methods may include but is not limited to directing outside lights downward and away from vacant land, limiting night lighting use, and using the lowest possible correlated color temperature for the goal of the lighting.</p>	<p>Prior to and after Project activities</p>	<p>Project Proponent</p>