



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*



November 26, 2024  
*Sent via email*

Pilar Fløtterud  
Senior Planner  
City of Rancho Mirage  
69-825 Highway 111  
Rancho Mirage, CA 92271  
[pilarf@ranchomirageca.gov](mailto:pilarf@ranchomirageca.gov)

Priviere Villas Project (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2024101279

Dear Pilar Fløtterud:

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

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

## **CDFW ROLE**

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

---

<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:** Adam Nester

**Objective:** The Project proposes the development of a 10.08-acre residential community, consisting of 28 residential lots, accessory dwelling units, and associated improvements such as retention areas, paved drive aisles, and two points of access. The residential lots will vary from 12,001 square feet to 14,542 square feet. Each lot will consist of a 2,284 square foot single family home with a detached 540 square foot garage and 636 square foot accessory dwelling unit (ADU). Retention basins will occur at two lots adjacent to the Via Josefina frontage. One lot will be 9,863 square feet, and the second will be 6,446 square feet. The Project includes a General Plan Zoning Map Amendment to amend the project General Plan and Zoning designation from Very Low Density (R-L-2) and Medium Density Residential (R-M) designations to Low Density Residential 3 du/ac max. (R-L-3). The Project area previously operated as an equestrian center until April 2023, when the center was demolished. However, landscaping, including mature trees and shrubs from the previous development still exist onsite.

Landscaping is proposed along the Via Josefina frontage, the Via Florencia frontage, and throughout the project. The Project proposed the use of drought-tolerant trees, shrubs and accents, and plant material could include acacia, willow, mesquite, palo verde, palm trees, aloe, ocotillo, and various forms of agave and cactus.

**Location:** The Project site is located in the southeast corner of Ginger Rogers Road and Via Josefina in the City of Rancho Mirage, within the following Assessor's Parcel Numbers: 685-100-007 and 685-110-017.

**Timeframe:** Project construction is proposed to begin in 2024.

## **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 a 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 the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and artificial nighttime lighting, as well as revising the mitigation measures for nesting birds and burrowing owl.

#### **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.).

With regard to the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), per its associated Implementing Agreement and Permits from CDFW and

the U.S. Fish and Wildlife Service (USFWS), Take associated with Covered Activities will not be in violation of the Migratory Bird Treaty Act and will be consistent with Fish and Game Code sections 3503 and 3503.5; therefore, all Covered Activities within and outside Conservation Areas must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds.

Page 42 of the MND indicates that “there are numerous suitable nesting sites for other nesting bird species (large trees and covered structures).” Based on review of historical aerial and street view imagery using Google Earth, the Project site contains areas with moderate cover of trees and shrubs and areas with sparse cover of native and non-native plants, habitat suitable for birds that nest in trees and shrubs and on the ground. CDFW is concerned about impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction. Although the MND includes a Mitigation Measure BIO-3 for nesting birds including loggerhead shrike (*Lanius ludovicianus*), CDFW finds the measure to be insufficient in scope and timing to reduce impacts to nesting birds to a level less than significant. Mitigation Measure BIO-3 indicates that the “general breeding bird survey are performed no more than 14 days prior to site disturbance if ground disturbance (clearing, grubbing, grading, and construction) occurs between February 15th and June 15th”. 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 (Socular 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.

To support the City in reducing impacts to nesting birds to a level less than significant, CDFW recommends that the City revise Mitigation Measure BIO-3 with the following additions in **bold** and removals in ~~strikethrough~~:

---

<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.

### **Mitigation Measure BIO-3: Nesting Birds**

**To the greatest extent feasible, Project construction activities will avoid the peak nesting season (February 1 through September 15). 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.** ~~The project proponent shall ensure that a breeding survey for the loggerhead Shrike and general breeding bird survey are performed no more than 14 days prior to site disturbance if ground disturbance (clearing, grubbing, grading, and construction) occurs between February 15th and June 15th.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for revised Mitigation Measure BIO-2 and BIO-3, as well as CDFW-recommended Biological Resources Mitigation Measures BIO-[A] and BIO-[B].

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

On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA. If Project activities could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

Take of individual burrowing owls and their nests or eggs 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.” 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.).

With regard to the CVMSHCP, the CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs. To the contrary, section 3.5.6 of the NCCP Permit states burrowing owl “pairs or individuals will not be Taken” and reiterates that the “HCP/NCCP does not authorize Take of [burrowing owl] nests [or] eggs[.]” Therefore, throughout the CVMSHCP area—both within and without Conservation Areas—Permittees must ensure that activities occurring within their jurisdictions do not result in the take, possession, or destruction of burrowing owl individuals, nests, or eggs. Any activity occurring within the CVMSHCP area 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.

Page 41 of the MND indicates that “An intensive survey for the burrowing owl was undertaken following protocols established by state and federal governments. No observations of the owl were recorded, and no evidence of its presence was found. The habitat of the project site is suitable for the owl and active burrows of the species have been found on several occasions within three miles of the project site. Due to the suitable habitat of the site and the known occurrence in the immediate area, the burrowing owl can take up residence on the site at any time.” The Project site contains suitable nesting and foraging habitat for burrowing owls. To address burrowing owl, the MND includes Mitigation Measure BIO-2, which indicates “The project proponent shall ensure that burrowing owl clearance survey is performed not more than 14 days prior to project site disturbance (clearing, grubbing, grading, construction). If any owls are identified, the most current protocol established by the California Department of Fish and Wildlife (Staff Report on Burrowing Owl Mitigation, 2012) must be followed. A survey shall also take place 24 hours prior to ground disturbance as burrowing owls may colonize or recolonize the site within the time between the original survey and project activities.” CDFW considers the burrowing owl measure insufficient in scope and timing to reduce impacts to a level less than significant. The measure does not clearly indicate what avoidance, minimization, and mitigation measures are required if owls are observed within the Project site. Also, given MND’s lack of discussion on the methods

used to survey for burrowing owl and the potential for burrowing owls to move on to the Project site prior to construction, CDFW recommends conducting focused surveys for burrowing owl prior to vegetation removal or ground-disturbing activities.

To support the City in reducing impacts to burrowing owl to a level less than significant, CDFW recommends the City revise Mitigation Measure BIO-2 with the following additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-2: 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 (occupied site means at least one burrowing owl has been observed within the last three years; may also be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site), 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 and the conservation status of adjacent or nearby suitable habitat, along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval. If Project activities, including burrow exclusion and closure, could result in take of burrowing owl, appropriate CESA authorization should be obtained prior to commencement of Project activities.**

**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. The project proponent shall ensure that burrowing owl clearance survey is performed not more than 14 days prior to project site disturbance (clearing, grubbing, grading, construction). If any owls are identified, the most current protocol established by the California Department of Fish and Wildlife (*Staff Report on Burrowing Owl Mitigation, 2012*) must be followed. A survey shall also take place 24 hours prior to ground disturbance as burrowing owls may colonize or recolonize the site within the time between the original survey and project activities.

### **3) 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 41 of the MND indicates that Coachella Valley fringe-toed lizard (*Uma inornata*) was “recorded in the extreme northeastern corner of the project site”, and page 42 of the MND indicates that Palm Springs round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*) “was detected two times and is expected to occur throughout the project site due to the suitable habitat.” To be consistent with the CVMSHCP, CDFW recommends that the City include in a revised MND the following mitigation measure:

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

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

### **4) Artificial Nighttime Lighting**

Page 22 of the MND indicates that “Lighting for landscaping, pathways and stairways, monuments and signs shall be installed as needed for security and safety purposes. All lighting will be low voltage and have low maintenance LED fixtures. The selective use of up lights will be limited to high-profile specimen tree and shrubs and will be shielded to reduce glare and hot spots.” The Project is located adjacent to currently vacant areas



with natural desert landscape including scattered, low-lying vegetation to the north, south, east and west—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>3</sup> Many species use photoperiod cues for communication (e.g., bird song<sup>4</sup>), determining when to begin foraging,<sup>5</sup> behavioral thermoregulation,<sup>6</sup> and migration.<sup>7</sup> Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.<sup>15</sup>

While 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 minimization plans 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 Rancho Mirage and Project proponent shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of Rancho Mirage and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward 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**

---

<sup>3</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>4</sup> Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

<sup>5</sup> Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

<sup>6</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>7</sup> Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

standards at <http://darksky.org/>). The City of Rancho Mirage and Project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

### **5) Landscaping**

Regarding the Project's landscaping, page 22 of the MND states that "Drought-tolerant trees, shrubs and accents would be utilized to both enhance the property and complement the desert environment. Plant material could include acacia, willow, mesquite, palo verde, palm trees, aloe, ocotillo, and various forms of agave and cactus." CDFW 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/>). CDFW also 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/>.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

### **ENVIRONMENTAL DOCUMENT FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of

Pilar Fløtterud, Senior Planner  
City of Rancho Mirage  
November 26, 2024  
Page 11

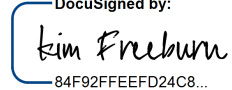
environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## 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:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

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

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW  
[Heather.Brashear@Wildlife.ca.gov](mailto:Heather.Brashear@Wildlife.ca.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-3: Nesting Birds</b></p> <p>To the greatest extent feasible, Project construction activities will avoid the peak nesting season (February 1 through September 15). 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.</p>	<p><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>
<p><b>Mitigation Measure BIO-2: 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</p>	<p><b>Timing: Focused surveys:</b> Prior to vegetation removal or ground-disturbing</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project proponent</p>

<p>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 (occupied site means at least one burrowing owl has been observed within the last three years; may also be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site), 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 and the conservation status of adjacent or nearby suitable habitat, along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval. If Project activities, including burrow exclusion and closure, could result in take of burrowing owl, appropriate CESA authorization should be obtained prior to commencement of Project activities.</p>	<p>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>Monitoring and Reporting:</b> City of Rancho Mirage</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 Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p><b>Mitigation Measure BIO-[A]: Salvage of Sand-Dependent Covered Species</b></p> <p>Prior to vegetation removal or ground-disturbing activities, the City of Rancho Mirage will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.</p>	<p><b>Timing:</b> Prior to vegetation removal or found-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>
<p><b>Mitigation Measure BIO-[B]: Artificial Nighttime Lighting</b></p> <p>Throughout construction and the lifetime operations of the Project, the City of Rancho Mirage and Project proponent shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of Rancho Mirage and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward 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</p>	<p><b>Timing:</b> Throughout construction and the lifetime operations of the Project.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Rancho Mirage and Project proponent</p> <p><b>Monitoring and Reporting:</b> City of Rancho Mirage</p>

<p><b>upward into the night sky (see the International Dark-Sky Association standards at <a href="http://darksky.org/">http://darksky.org/</a>). The City of Rancho Mirage and Project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</b></p>		
--	--	--