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December 15, 2023
Sent via email

Cheri Flores
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City of La Quinta
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Travertine Specific Plan Amendment (PROJECT)
Draft Environmental Impact Report (DEIR)
SCH# 2018011023

Dear Cheri Flores:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the City of La Quinta (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines.¹

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

CDFW ROLE

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

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. 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: Hofmann Land Development Co.

Objective: The Project proposes a Specific Plan Amendment to the 1995 Travertine and Green Specific Plan (referred herein as the "1995 Specific Plan"). The proposed Project covers an area of 969.02 acres, of which 553.14 acres will be permanently impacted. The Project proposes the development of a mix of uses consisting of up to 1,200 dwelling units, a resort facility, recreational uses such as a golf training facility, clubhouse, neighborhood parks, a public trail system and recreational open space, natural open space for conservation on approximately 358 acres, and supporting water supply and on-site and off-site drainage and utilities infrastructure. The Project includes the construction of two water reservoirs in the southwest corner of the Project site and improvements to Guadalupe dikes and the construction of a portion of the Jefferson Street extension in the northwest corner of the Project site. The Project also includes the construction of an off-site utility field, including the construction of up to five wells, at one of several proposed locations within a 2-mile radius northeast and east of the Project site.

The Project proposes recreational open space including a 5-mile public trail system (Community Grand Loop Trail) surrounding the developed portion of the Project. Desert landscaping using native plants is proposed adjacent to the 5-mile public trail system. The Project also proposes 8-foot-tall fencing surrounding the developed portion of the Project to keep Peninsular bighorn sheep from entering the developing portion of the Project. Approximately 301.2 acres in Planning Area 20 on the southern portion of the Property is proposed to remain as conserved and protected natural open space, and will not be developed, apart from the proposed water reservoirs, access road, and associated infrastructure.

The proposed off-site utility field will host the development of up to five well sites and a 2.5-acre electric power substation. The exact locations of these off-site utility field facilities have not been determined; however, based on consultations with the local water and power providers, they are proposed to be located east of the Project property

and Dike 4, generally between Avenue 58 on the north, Avenue 64 on the south, Calhoun Street on the east, and Jefferson Street on the west.

The Guadalupe Creek Diversion Dikes are proposed to be improved as a part of the Project to convey new increased flow rates with freeboard and scour protection as required by CVWD, and in accordance with federal standards for levee certification. Within the Project site, stormwater will be conveyed down the Project site gradient and into two primary surface basins located at the east-end of the Project site. A perimeter flood protection barrier is proposed along the Project's western and southern boundaries to manage alluvial fan flows. The barrier will consist of a raised edge condition with a slope lining to protect against scour and erosion.

Approximately 36.89 acres of the Project footprint are within the Santa Rosa and San Jacinto Mountains Conservation Area in the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) area, including 15.65 acres associated with the proposed two water tanks and booster station and associated road and infrastructure (6.40 acres of permanent impacts and 9.25 acre of remedial grading), 9.52 acres associated with the Jefferson Street extension, 6.81 acres associated with the improvements to the existing Guadalupe Dike, 4.41 acres associated with offsite flood protection along the western edge of the Project, and 0.45 acre associated with a proposed trail.

The Project purposes artificial nighttime lighting for parking lots, gated entry points, common areas, event spaces, courtyards, and pedestrian paths.

Along with a Specific Plan Amendment, the Applicant is requesting approval of a General Plan Amendment to change the General Plan Land Use Map for the Specific Plan Project area to be consistent with the land uses proposed in the Specific Plan Amendment, and revise the Circulation Element Roadway Classification Map to remove Madison Street as a General Plan Roadway from south of Avenue 60 to Avenue 62, and to realign Jefferson Street within the boundaries of the Specific Plan. The Project also proposes a Zone Change to revise the City's Zoning Map to be consistent with the land uses proposed in the proposed Specific Plan Amendment. The Applicant is also requesting additional right-of-way along Jefferson Street and Avenue 62 from the federal Bureau of Land Management (BLM) and Bureau of Reclamation (BOR), respectively, in order to widen and/or extend these roads into the Project property. Access to the Project includes a southerly extension of Jefferson Street through future development contemplated in the General Plan, as well as the westerly extension of Avenue 62.

Location: The Project site is generally located north of the Martinez Mountains and south of Avenue 58 in the City of La Quinta, County of Riverside, California. The Project site is depicted in the northeast quarter of the United States Geological Survey's

(USGS) Martinez Mountain, California 7.5-minute quadrangle in Section 32, 33, and 34 of Township 6 South, Range 7 East and in Section 4, 5, and 5 of Township 7 South, Range 7 East. The Project site is located adjacent to the Martinez Rockslide and the Santa Rosa Mountains. The Project is located within the following Accessor's Parcel Numbers: 753040014, 753040016, 753040017, 753050007, 753050013, 753050029, 753060003, 753070005, 753080003, 753080005, 753080006, 764280057, 764280059, 764280061, 766110002, 766110003, 766110004, 766110005, 766110007, 766110009, 766120001, 766120002, 766120003, 766120006, 766120015, 766120016, 766120018, 766120021, and 766120023.

This Draft EIR also includes a programmatic evaluation of the off-site utility field where water wells and an electric power substation are planned to support the Project. The exact locations of the off-site improvements have not been determined; however, they are proposed to be located east of the Project site, generally located between Avenue 58 on the north, Avenue 64 on the south, Calhoun Street on the east, and Jefferson Street on the west.

Timeframe: The DEIR indicates that construction of the proposed Project would occur over Grading Phases A and B, estimated to take two years each, and the phases may overlap by six months to a year.

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 DEIR 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 DEIR are explained in greater detail below and summarized here. CDFW is concerned that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information to facilitate a meaningful review by CDFW, including a complete and accurate assessment of impacts to biological resources and an incomplete Project description. CDFW requests that additional information and analyses be added to a revised DEIR, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to less than significant.

Project Description

Compliance with CEQA is predicated on a complete and accurate description of the proposed Project. Without a complete and accurate Project description, the DEIR likely provides an incomplete assessment of Project-related impacts to biological resources. CDFW has identified gaps in information related to the Project description.

The DEIR lacks a discussion of the plans to conserve Open Space Natural Areas located on the southern portion of the Project site. The DEIR also lacks details on the proposed alignment of fencing to both keep Peninsular bighorn sheep (*Ovis canadensis nelsoni*) out of the developed portions of the Project site and control human access to areas protected for wildlife. Lastly, the DEIR lacks an adequate discussion of plans for artificial nighttime lighting. CDFW requests that the DEIR is revised to include details on plans to conserve Open Space Natural Areas, the locations of fencing for both Peninsular bighorn sheep and human access to wildlife areas, and design plans for artificial nighttime lighting and lighting specifications. To conduct a meaningful review and provide biological expertise on how to protect biological resources, CDFW requires a complete and accurate Project description.

Mitigation Measures

CEQA requires that a DEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the DEIR 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 regarding the protection of Open Space Natural Areas, desert tortoise (*Gopherus agassizii*), Le Conte's thrasher (*Toxostoma lecontei*), Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) compliance, and artificial nighttime lighting, as well as revising the mitigation measures for nesting birds and burrowing owl (*Athene cunicularia*).

1) Project Description

Conservation Status of Open Space Natural Areas

CDFW appreciates that in the proposed Specific Plan, the Project's development footprint has been pulled back along the southern edge of the Project site leaving 301.2 acres of mostly open space natural area in Planning Area 20, with the exception of the footprint of the proposed two water tanks, access road, and associated infrastructure, as shown in Exhibit 3-12 (Recreation Plan). These Open Space Natural Areas provide important habitat value for Peninsular bighorn sheep and other wildlife. Page 3-14 of the DEIR indicates that "[n]atural open space land uses are proposed to occur on approximately 301.2 acres on the southern portion of the Project property for conservation and preservation purposes." However, the mitigation measures in the

Biological Resources section of the DEIR do not appear to reflect this commitment to conserve and protect the 301.2 acres of Open Space Natural Areas (excluding the approximately 6.5-acre footprint of the two proposed water reservoirs, access road, and associated infrastructure). CDFW recommends a new mitigation measure is added to document this commitment to conserve Open Space Natural Areas within the southern portion of the Project site.

Additionally, the DEIR lacks details on the type of legal instrument will be used to protect these Open Space Natural Areas for conservation and preservation purposes over the long term. Page 7 of the U.S. Fish and Wildlife Service's (USFWS) Biological Opinion (FWS-ERIV-2735.3), completed for the 1995 Specific Plan in December 2005, indicates that "[f]ollowing several meetings in 2002 and 2003 with the Service and CDFG, the development plan was extensively modified and reconfigured to remove development in bighorn sheep habitat from the southern portion of the Travertine property, specifically in Sections 4 and 5 in the vicinity of the Martinez Rockslide. Based on these discussions, the project boundary was established on May 1, 2003, during a field visit with Travertine, Service, and CDFG, which was depicted in the draft Coachella Valley Multiple Species Habitat Conservation Plan, dated October 15, 2004 (CVMSHCP). Subsequent meetings with the Service in 2005 refined the project boundary to encompass approximately 170 acres of conserved habitat within Travertine's original land holdings (Figure 1). This area to be conserved as bighorn sheep habitat lies in the southern portion of the project site adjacent to the Martinez Rockslide and would be preserved in perpetuity through a deed restriction consistent with California Civil Code Section 815, et seq., as approved by the Service, prior to recording the first final map for the project." CDFW notes that since the time that the USFWS Biological Opinion was finalized, the Project has further revised its plans and pulled the development footprint further away from the Martinez Rockslide, and the Project is now proposed a total 301.2 acres of conserved and protected Natural Open Space Areas (excluding the approximately 6.5-acre footprint of the proposed water reservoirs, access road, and associated infrastructure) in the southern portion of the Project site. Removing the 6.5-acre footprint of the proposed water reservoirs, access road and associated infrastructure from acreage calculations, CDFW estimates that the remaining Open Space Natural Areas available for conservation in the southern portion of the Project site would total 294.7 acres. To ensure the conservation of 294.7 acres of Open Space Natural Areas for Peninsular bighorn sheep and other wildlife and to support the Project's consistency with the USFWS Biological Opinion, CDFW recommends the DEIR is revised to include details on the type of legal instrument that is proposed to conserve the Open Space Natural Areas within the Project site.

Lastly, the DEIR lacks details on how the Open Space Natural Areas will be managed and monitored in perpetuity, and how long-term monitoring and management will be funded, to maintain habitat value for wildlife in these on-site protected areas. Mitigation Measure BIO-7 in the DEIR indicates a \$500,000 endowment; however, the mitigation measure is not clear on whether this is intended for long-term monitoring and

management of Open Space Natural Areas or if that amount would be sufficient for the management of 294.7 acres of Open Space Natural Areas proposed for conservation on the southern portion of the site. The methods of preserving Open Space Natural Areas and details on long-term maintenance, monitoring, and funding of these activities have important implications with respect to the potential for proposed Open Space Natural Areas to provide long-term habitat value for wildlife, including Peninsular bighorn sheep (Fully Protected Species; CVMSHCP Covered Species). Without these details in the DEIR, CDFW is unable to adequately analyze project impacts and proposed avoidance, minimization, and mitigation measures, and provide biological expertise on activities that have the potential to adversely affect fish and wildlife resources. CDFW recommends that the Project's Open Space Natural Areas are protected in perpetuity under a conservation easement and that funding is provided for a non-wasting endowment that covers all long-term maintenance and monitoring costs.

To accurately document the Project's commitment to conserve approximately 294.7 acres of Open Space Natural Areas in the southern portion of the Project site and ensure consistency with requirements in the USFWS Biological Opinion, CDFW recommends that DEIR is revised to include the following mitigation measure:

Mitigation Measure BIO-[A]: Protection of On-Site Open Space Natural Areas

Prior to initiation of Project construction activities, 294.7 acres of Open Space Natural Areas that are avoided on the southern portion of the Project site shall be protected in perpetuity through a recordation of a conservation easement or similar legal instrument. Long-term maintenance and monitoring activities for the on-site Open Space Natural Areas shall be outlined in a long-term management plan and submitted to CDFW and USFWS for review and approval. Funding shall be provided for a non-wasting endowment for the long-term maintenance and monitoring activities for the on-site Open Space Natural Areas, submitted to CDFW and the USFWS for review and approval, and held by an entity to be approved by CDFW and the USFWS.

Additionally, Mitigation Measure BIO-6 indicates that the “[p]roject proponent shall permanently protect 19.7 acres in Section 5 as bighorn sheep habitat [...]”, and this commitment is also referenced on Page 8 of the Project's U.S. Fish and Wildlife Service's (USFWS) Biological Opinion (FWS-ERIV-2735.3); however, this commitment to conserve 19.7 acres appears to be based on an outdated project design. CDFW recommends that Mitigation Measure BIO-6 is revised, if needed, to accurately reflect the Project's commitments to conserve habitat for Peninsular bighorn sheep.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for revised MM BIO-28 and MM BIO-26, as well as CDFW-recommended MM BIO-[A] through MM BIO-[E].

Fencing Plans

The DEIR lacks important details on fencing proposed to keep Peninsular bighorn sheep out of the developed portions of the Project site and control human access to areas protected for wildlife. Mitigation Measure BIO-1 indicates that “an 8-foot-tall wildlife fence constructed of tubular steel and painted to blend in with the desert environment shall be installed where the Project interfaces with Coral Mountain along the northern boundary and extend southward along the western and southern boundary of proposed development to preclude PBS from entering the Project. The fence shall extend to where Avenue 62 intersects with the eastern Project boundary.” It is unclear where the 8-foot fence is proposed to be located in relation to the 5-mile Community Grand Loop Trail, areas proposed for landscaping, any additional fencing (e.g., fencing to control human access to wildlife areas), any fuel modification areas, and manufactured slopes surrounding the developed portion of the Project site. To allow CDFW to conduct a meaningful review and provide biological expertise on activities that have the potential to adversely affect fish and wildlife resources, CDFW recommends the DEIR is revised to include a map and/or diagrams showing the proposed alignment of the 8-foot-tall fence in relation to other Project components including the Community Grand Loop Trail, areas proposed for landscaping and any fuel modification, any additional fencing (to control human access to wildlife areas), and manufactured slopes surrounding the developing portion of the Project site. The DEIR also includes limited details on any proposed nighttime lighting, including lighting designs and specifications associated with the Community Grand Loop Trail and other areas surrounding the Project’s developed area. See Artificial Nighttime Lighting section below for more information.

CDFW requests the DEIR is revised to include additional information on the conservation status of the Open Spece Natural Areas, fencing plans, and artificial nighttime lighting designs and specifications to support CDFW in conducting a meaningful review and providing biological expertise relating the Project activities that have the potential to adversely affect fish and wildlife resources.

2) Assessment of Biological Resources

Peninsular Bighorn Sheep

Page 4.4-12 of the DEIR indicates that “PBS [Peninsular bighorn sheep] was not observed on the Project site during the 2022 field survey performed by Michael Baker. The sheep has a moderate potential to occur on the Project site. The native vegetation communities within the southern portions of the Project site provide suitable foraging habitat for this species, but the Project site is unlikely to be used for lambing. There have been recent occurrence records for this species within one mile of the Project site. CDFW has monitored PBS movement in the Santa Rosa and Santa Jacinto mountains since 2009 with GPS collars and direct observation. CDFW’s GPS data documents

current and historic sheep use of Coral Mountain, north of the Project site. CDFW research on sheep movement, based on GPS data and direct observation, shows a trend of ewes spending a greater portion of their time in low-elevation habitat particularly during the lamb-rearing season. The temporal shift to lower elevations may be a response to long-term drought conditions.” CDFW confirms that GPS collar data, collected by CDFW on Peninsular bighorn sheep between 2009 through December 2023, indicate that Peninsular bighorn sheep use Coral Mountain. CDFW also notes that recent collar data shows Peninsular bighorn sheep using areas within the footprint of the proposed water reservoirs on the southwest corner of the Project site in addition to the alluvial fans and washes to the southeast of the proposed reservoirs. CDFW also notes that there are numerous water sources within the mountains to the west of the Project site, as discussed in the report titled *Assessing Climate-Related Changes in Water Resources in the Santa Rosa and San Jacinto Mountains National Monument* (Barrows, C. et al 2014²), that support Peninsular bighorn sheep. Based on this information, the Project has the potential to impact Peninsular bighorn sheep habitat associated with construction of the Johnson Street extension in the Project’s northwest corner, the construction and operations of the two water reservoirs, and the construction of up to five wells at one of locations proposed for an off-site utility field parcel, a location which has yet to be selected.

Jefferson Street Extension

Exhibit 4.4-3 the DEIR shows that the construction of a portion of the Jefferson Street extension, which extends north from the Project site towards the future proposed Coral Canyon Development and Avenue 58, is proposed as part of the Project. Page 3-42 of the DEIR indicates that “Jefferson Street will be extended south of Avenue 58 through the Coral Canyon development, a portion of Bureau Land Management (BLM) land and continue through Travertine to meet the extension of Avenue 62, dependent upon the timing of development of Coral Canyon and approvals through the Bureau of Reclamation (BOR) and BLM.” The DEIR lacks an analysis and discussion on how the Jefferson Street extension may impact Peninsular bighorn sheep using Coral Mountain. Because the construction of a portion of the Jefferson Street extension is proposed as part of the Project and is a component of plans to construct a road that has the potential to isolate Coral Mountain from the Santa Rosa and San Jacinto Mountains and restrict access to Coral Mountain for Peninsular bighorn sheep, CDFW recommends that DEIR is revised to include analysis of how the Jefferson Street extension may impact Peninsular bighorn sheep using Coral Mountain. Artificial nighttime lighting associated

² Barrows, C., McGinnis, G. *Assessing Climate-Related Changes in Water Resources in the Santa Rosa and San Jacinto Mountains National Monument*. University of California Riverside’s Center for Conservation Biology, July 2014.

with the proposed Jefferson Street extension also has the potential to influence the use of Coral Mountain by Peninsular bighorn sheep and should be included in the analysis (see the Artificial Nighttime Lighting section below for more information). Based on the findings of recommended impact analysis, CDFW recommends that avoidance, minimization, and mitigation measures are proposed in a revised DEIR that ensure that Peninsular bighorn sheep are able to continue accessing and using resources on Coral Mountain that are important for their life cycle needs.

Proposed Wells at Offsite Utility Field Facilities

Page 4.18-12 indicates that as part of the Project, “CVWD requires the construction of up to five wells and associated improvements at the off-site utility field at buildout of the Project. The number of well sites necessary to serve the Project has been determined in consultation with CVWD. The initial number of well sites based on the total acreage of the Project is equivalent to up to five well sites at maximum.” Page 4.4-2 of the DEIR states that the DEIR “includes a programmatic evaluation of the off-site utility field where water wells and an electric power substation are planned to support the Project. The exact locations of the off-site improvements have not been determined; however, they are proposed to be located east of the Project site, generally located between Avenue 58 on the north, Avenue 64 on the south, Calhoun Street on the east, and Jefferson Street on the west.” The DEIR lacks details on the Project’s potential impacts to groundwater-dependent ecosystems and species that depend on them including Peninsular bighorn sheep associated with the construction of up to five new wells. There are a number water sources within the mountains to the west of the Project site that support Peninsular bighorn sheep, including, but not limited, to water sources in Guadalupe Creek and Devil’s Canyon (Barrows, C. et al 2014³). New wells will result in groundwater drawdown, and depending on the locations of the proposed wells and extent of groundwater drawdown through time, there is the potential for the new wells to impact water sources and vegetation that are crucial in supporting local populations of Peninsular bighorn sheep. Especially during the summer months and through times of drought, Peninsular bighorn sheep rely on vegetation in washes and alluvial fans where groundwater is generally closer to the surface and in greater quantity compared to mountain sides.⁴ CDFW recommends that the DEIR is revised to include an analysis, including quantitative data, on how the construction of up to five wells, proposed at one

³ Barrows, C., McGinnis, G. Assessing Climate-Related Changes in Water Resources in the Santa Rosa and San Jacinto Mountains National Monument. University of California Riverside’s Center for Conservation Biology, July 2014.

⁴ United States Fish and Wildlife Service. 2009. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Peninsular Bighorn Sheep and Determination of a Distinct Population Segment of Desert Bighorn Sheep (*Ovis canadensis nelsoni*). Federal Register 74(70): 17321.

of several potential locations for the field utility parcel, may impact water sources and vegetation used by Peninsular bighorn sheep through groundwater drawdown. CDFW also recommends that based on findings of this analysis, the DEIR is revised to include proposed appropriate avoidance, minimization, and mitigation measures for CDFW and public review to support the City in reducing impacts to Peninsular bighorn sheep to a level less than significant.

3) 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.).

Page 4.4-6 of the DEIR indicates that "the *Parkinsonia florida* – *Olneya tesota* Woodland, *Larrea tridentata* Shrubland, *Atriplex polycarpa* Shrubland, and ornamental vegetation communities within the Project site provide suitable nesting opportunities for a variety of resident and migratory bird species, including those birds that nest on open ground or within cacti". The DEIR includes Mitigation Measure BIO-28 for nesting birds, which indicates that "[i]f Project construction will require on-site disturbance during the nesting seasons (approximately January 15 to August 31), then nesting bird surveys must be conducted by a qualified ornithologist or biologist immediately prior to on-site disturbance. If nesting birds are found, then no work is permitted near the nest until the young have fledged. Consistent with CDFW recommendations, an avoidance buffer of about 500 feet for listed species and birds-of-prey, and a buffer of 100 to 300 feet for unlisted songbirds, shall be applied." Conducting work outside the peak breeding 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 compliance with all applicable laws pertaining to nesting and migratory birds. 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., 2017⁵). CDFW staff have observed that climate change conditions may result in the 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 considers the Mitigation Measure BIO-28 to be insufficient in scope and timing to reduce impacts to nesting birds to less than significant. CDFW recommends the City revise Mitigation Measure BIO-28 with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-28: Nesting Birds

Vegetation clearing shall be conducted outside of the **peak** nesting season, which is generally identified as February 1 through August 31, **to the greatest extent feasible**. **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.** ~~Alternatively, and only if avoidance of the nesting season is not feasible, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, demolition activities, and grading. If active nests are identified, the biologist shall establish suitable buffers around the nests, and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests.~~

⁵ 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.

Le Conte's Thrasher

Page 4.4-36 of the DEIR indicates that Le Conte's thrasher (CVMSHCP Covered Species; California Species of Special Concern) "was not observed on the Project site and there have been no occurrence records for this species within five miles of the Project site. However, there is moderate potential for the species to occur on the Project site. Although the site provides foraging habitat there is only marginal nesting habitat. The species requires undisturbed substrate for foraging under desert shrubs." The DEIR and its supporting documents lack details on survey methods used for Le Conte's thrasher—that is, if focused surveys for Le Conte's thrasher were conducted. The Project is located within Other Conserved Habitat for Le Conte's thrasher for the CVMSHCP, specifically in the southeast section of the Project site where the two water reservoirs, access road, and associated infrastructure are proposed. The Project is also located within and adjacent to Other Conserved Habitat for Le Conte's thrasher along the western edge of the Project site and in the northwestern corner of the Project site where the construction of a portion of the Jefferson Street extension and improvements to Guadalupe Dike are proposed under the Project. Because Le Conte's thrasher are "sparsely distributed and difficult to detect" (Hargrove, L. P. et al. 2020⁶), CDFW recommends that in addition to nesting bird surveys (see recommended revisions to Mitigation Measure BIO-28 in the Nesting Birds section), focused surveys for Le Conte's thrasher are also conducted following methods outlined on pages 6–8 of the *LeConte's Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley* (Hargrove, L. P. et al. 2020⁶), which include broadcast of song and calls. To support the City in reducing impacts to Le Conte's thrasher to less than significant, CDFW recommends the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[B]: Le Conte's Thrasher

Le Conte's thrasher focused surveys shall be performed by a qualified avian biologist prior to vegetation removal or ground-disturbing activities following methods outlined on pages 6-8 of the *LeConte's Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley* (Hargrove, L. P. et al. 2020⁴), including the broadcast of song and calls by a qualified avian biologist with an appropriate permit. If active nests are found during the pre-construction nesting bird surveys, the qualified biologist shall inform CDFW and 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. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting

⁶ Hargrove, L., P. Unitt, K. Ferree, K. Clark, and L. Squires. 2019 (Revised 2020). *LeConte's Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley*. Report prepared for the Coachella Valley Conservation Commission. San Diego Natural History Museum, San Diego.

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.

4) *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.”

Page 4.4-11 of the DEIR indicates that “burrowing owl was not observed on the Project site during the field survey performed by Michael Baker (2022). However, the owl has moderate potential to occur on the Project site since there is suitable foraging habitat. The Project site provides marginal nesting habitat for this species due to the onsite soil conditions and minimal number of suitable burrows.” Page C-6 of the Project’s Biological Assessment indicates that “multiple burrowing owls were observed during surveys conducted in 2003 near the northeast corner of the Project site (AMEC 2010).” The DEIR and supporting documents do include the biological report referred to as *AMEC Earth & Environment, Inc. 2010. City of La Quinta General Plan Update: Biological Resources. Report dated June 2010 (AMEC 2010)*, or a report containing the results and methods used from surveys conducted in 2003. Page 8 of the Project’s Biological Assessment indicates that “[b]ased on a review of the survey requirements set forth in the CVMSHCP, results of previous biological studies, and coordination with the USFWS, focused surveys for special-status species, including [...] burrowing owl (*Athene cunicularia*; State Species of Special Concern [SSC]), were not conducted.” Based on this information, it appears that the last surveys for burrowing owl were conducted in 2003. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period. The DEIR and supporting documents also lack details on the methods used and findings of previous surveys for burrowing owl, details which are important to CDFW and the public in assessing the suitability of the Project site to support nesting habitat for burrowing owls, such as the timing of surveys, transect spacing, names and qualifications of surveyors, and the locations of burrowing owls, potential burrows, occupied burrows, and burrowing owl sign.

To support the City and Project proponent in avoiding take of burrowing owl individuals and their nests and eggs, CDFW recommends the DEIR is revised to include the results, including summary reports, of a *recent* burrowing owl habitat assessment and/or focused surveys conducted following guidelines outlined in the *Staff Report on Burrowing Owl Mitigation* (CDFW 2012⁷). A habitat assessment informs the locations of suitable habitat for burrowing owl within the Project site and surrounding area and identifies areas where focused surveys should be conducted. A habitat assessment and focused surveys for burrowing owl provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, 3503.5, and 3513. If focused surveys confirm occupied burrowing owl habitat in or adjacent to the Project area, CDFW recommends that the DEIR is revised to include an impact assessment per guidelines in the *Staff Report on Burrowing Owl Mitigation*. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of the proposed Project. A burrowing owl habitat assessment, focused surveys, and an impact assessment will also inform appropriate avoidance, minimization, and mitigation measures for the Project and help the City demonstrate that the Project's impacts to burrowing owls are less than significant.

Although the DEIR includes Mitigation Measures BIO-26 and BIO-36 for burrowing owls, CDFW considers the measures to be insufficient in scope and timing to reduce impacts to less than significant. To support the City in reducing impacts to burrowing owl to less than significant, CDFW recommends Mitigation Measures BIO-26 and BIO-36 are replaced with the following measure:

Mitigation Measure BIO-26: Burrowing Owl Avoidance

No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted within the Project site and surrounding area, including the selected off-site utility field parcel, by a qualified biologist according to the specifications of the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012 or most recent version).

Suitable habitat for burrowing owl has been identified within the Project site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* prior to vegetation removal or ground-disturbing activities. Focused burrowing owl

⁷ California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency.

surveys shall also be conducted in all areas identified through a habitat assessment as being suitable habitat for burrowing owls at the selected off-site utility field parcel. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent 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 avoidance is proposed. 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* (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.

5) Desert Tortoise

Page C-9 of the Project's Biological Assessment indicates that the "project site contains suitable habitat for this species [desert tortoise]. However, there are no occurrence records within five miles of the project site and the project site is not connected to any known populations." Page 4.4-13 of the Project's Biological Assessment indicates that "[i]nitial field surveys were performed in 1993 and a focused desert tortoise survey was performed in 2003 and no live desert tortoise or diagnostic sign were found. More recently, a general biological survey/habitat assessment and vegetation mapping was performed by Glenn Lukos Associates spanning several dates ranging from late 2017 to late 2019, with the results of the surveys included in the BRT. Michael Baker performed

a jurisdictional delineation in February 2021 and a general biological survey and vegetation mapping in February and March of 2022. No incidental observations of desert tortoise were made during the jurisdictional delineation, and results of general biological surveys indicated no desert tortoise or diagnostic sign of the species on-site. With these findings, the BOR and BLM, in consultation with USFWS, determined that the Project area historically supported low densities of desert tortoise, and more recently, desert tortoises are not present in the Project area.” Based on review of documentation included in the DEIR, it appears that focused surveys for desert tortoise have not been conducted since 2003. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period.

The Project is located within Other Conserved Habitat for desert tortoise under the CVMSHCP, specifically in the southwest section of the Project site where the two water reservoirs, access road, and associated infrastructure are proposed. The Project is also located within and adjacent to Other Conserved Habitat for desert tortoise along the western edge of the Project site and in the northwestern corner of the Project site where the construction of a portion of the Jefferson Street extension and improvements to Guadalupe Dike are proposed under the Project. The CVMSHCP Section 9.6.1.4 indicates that “[b]oth inside and outside Conservation Areas, avoidance, minimization, and mitigation measures require relocation of individual tortoises if required surveys locate individuals on the site of Covered Activities.” Given the large 969.02-acre size of the Project area, the Project’s overlap and adjacency with modeled Other Conserved Habitat for desert tortoise under the CVMSHCP, and the potential for desert tortoise to move into the Project site between the time that focused surveys for desert tortoise were last conducted in 2003 and the start of Project construction activities, CDFW recommends that the DEIR is revised to include the findings from recent focused surveys for desert tortoise. Additionally, to support the City in reducing impacts to desert tortoise to less than significant, CDFW recommends that the City add the following mitigation measure to the DEIR:

Mitigation Measure BIO-[C]: Desert Tortoise Surveys

Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise (USFWS 2019;

[https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise Pre-project%20Survey%20Protocol 2019.pdf](https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise%20Pre-project%20Survey%20Protocol%202019.pdf)), during the species’ most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. If desert tortoise is found to be

present, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.

No more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS 2019 desert tortoise survey methodology (*Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise*; <https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise%20Pre-project%20Survey%20Protocol%202019.pdf>). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign within the Project area and 50-foot buffer zone. Pre-activity surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the surveys shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the qualified biologist shall ensure desert tortoise do not enter the Project area. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.

6) *Artificial Nighttime Lighting*

The DEIR includes limited details on the Projects plans for artificial nighttime lighting. Page 4.1-54 of the DEIR indicates that the Project will incorporate light fixtures that “provide appropriate levels of illumination for “purposes of nighttime safety [for] proposed parking lots, gated entry points, common areas, event spaces, courtyards, and pedestrian paths.” The DEIR lacks additional details on the Project’s lighting plans and lighting specifications. For example, it is unclear if nighttime lighting is proposed along the outer perimeter of the Project development area where the Community Grand Loop Trail is proposed in areas adjacent to Open Space Natural Areas proposed to support wildlife including Peninsular bighorn sheep.

The Project is located within and adjacent to open-space areas to the west, south, and north. A portion of the Project is located within and adjacent to Santa Rosa and San Jacinto Mountains Conservation Area, specifically within the southwest corner of the Project where the construction of two water reservoirs, access road, and associated infrastructure are proposed. The Project is also located within and adjacent to the Santa Rosa and San Jacinto Mountains Conservation Area along the western edge of the Project site and in the northwestern corner of the Project site where the construction of a portion of the Jefferson Street extension and improvements to Guadalupe Dike are proposed under the Project. The northern portion of the Project site is located adjacent

to Coral Mountain, which is used by Peninsular bighorn sheep (see Peninsular bighorn sheep section). Open-space areas to the north, west, and south of the Project site provide suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, bats, other nocturnal and crepuscular wildlife, and CVM SHCP Covered Species including Peninsular bighorn sheep, Le Conte's thrasher, burrowing owl, and desert tortoise. Details on proposed artificial nighttime lighting, including lighting plans, specifications, and their proposed locations, are important for assessing Project impacts to biological resources and allowing CDFW to conduct a meaningful review and provide biological expertise to support the City in identifying appropriate avoidance, minimization, and mitigation measures to reduce impacts to level that is less than significant. CDFW recommends the DEIR is revised to include lighting plans and specifications and an analysis of the direct, indirect, and cumulative impacts of artificial nighttime lighting expected to adversely affect biological resources within open-space areas adjacent to the Project site.

Artificial nighttime lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation⁸. Many species use photoperiod cues for communication (e.g., bird song⁹), determining when to begin foraging¹⁰, behavioral thermoregulation¹¹, and migration¹². Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it⁸.

Several mitigation measures in the DEIR address artificial nighttime lighting. Mitigation Measure BIO-2 states that "[a]ll lighting located within the development footprint shall conform with the requirements outlined in the Travertine Specific Plan and the MSHCP." Mitigation Measure BIO-17 states that "[o]utdoor lighting will be down-shielded and

⁸ 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.

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

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

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

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

directed away from the hillsides in accordance with the City municipal code.” Mitigation Measure BIO-30 also indicates that “[n]ight lighting shall be directed away from adjacent open space and SRSJM Conservation Area to protect wildlife from direct night lighting. Light fixtures adjacent to open space will be shielded and utilize low intensity lighting. If night lighting is required during construction, shielding shall be incorporated to ensure ambient lighting adjacent conservation lands are not increased.” Although the DEIR includes these mitigation measures, CDFW considers these measures insufficient in scope to reduce the Project’s impacts of artificial nighttime lighting on biological resources to less than significant.

To support the City in avoiding or reducing impacts of artificial nighttime lighting on biological resources to less than significant and complying with CVMSHCP Land Use Adjacency Guidelines associated with lighting, CDFW recommends that the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[D]: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of the Project, the City and Project proponent shall eliminate all nonessential lighting throughout the Project area, including the selected offsite field utilities parcel, 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 shall ensure that all lighting for the Project is fully shielded, cast downward, 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 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.

7) Coachella Valley Multiple Species Habitat Conservation Plan

Local Development Mitigation Fee

Section 5.2.1.1 of the CVMSHCP indicates that “[l]ocal jurisdictions will impose a mitigation fee on new Development within the Plan Area that impacts vacant land containing Habitat for the Covered Species or any of the conserved natural communities in the Plan through adoption, or amendment of an existing fee ordinance. In addition to large vacant areas, this also applies to small vacant lots within urban areas that still contain natural open space.” The Project site contains suitable habitat for burrowing owl and contains modeled Other Conserved Habitat for CVMSHCP Covered Species including, Le Conte’s thrasher and desert tortoise; therefore, the Project is required to pay a Local Development Mitigation Fee.

To document the City's obligation as a Local Permittee under the CVMSHCP to impose a local development mitigation fee for this Project, CDFW recommends the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[E]: CVMSHCP Compliance

Prior to construction and issuance of any grading permit, the City of La Quinta 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.

8) *Landscaping*

Page 4.1-49 of the DEIR indicates that “[e]dge conditions will include desert landscaping, and a band of transitional landscape planting with native plant reseeding and native tree planting.” Mitigation Measure BIO-11 indicates that “No exotic plants known to be toxic to PBS [Peninsular bighorn sheep], or invasive in desert environmental, will be used in the project landscaping.” The DEIR lacks additional details on the Project's proposed landscaping plans. CDFW recommends incorporation of water-wise concepts in any Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants. More information on native plants suitable for the Project location and nearby nurseries is available at Calscape: <https://calscape.org/>. Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: <https://saveourwater.com/>. CDFW also recommends that the DEIR include recommendations regarding landscaping from Section 4.0 of the CVMSHCP “Table 4-112: Coachella Valley Native Plants Recommended for Landscaping” (pp. 4-180 to 4-182; <https://cvmshcp.org/plan-documents/>).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity

Database (CNDDDB). The CNNDDB 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 DEIR to assist the City in identifying and mitigating Project impacts to biological resources. CDFW concludes that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information for a meaningful review of impacts to biological resources, including a complete assessment of Project impacts to biological resources and complete Project description. The CEQA Guidelines indicate that recirculation is required when insufficient information in the DEIR precludes a meaningful review (§ 15088.5) or when a new significant effect is identified and additional mitigation measures are necessary (§ 15073.5). CDFW recommends that a revised DEIR, including plans to conserve Open Space Natural Areas located on the southern portion of the Project site, the locations of proposed fencing to both keep Peninsular bighorn sheep out the developed portions of the Project site and control human access to areas protected for wildlife, and a complete Project description with lighting plans and specifications, be recirculated for public comment. CDFW also recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised DEIR.

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.

Cheri Flores, Planning Manager
City of La Quinta
December 15, 2023
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Sincerely,

DocuSigned by:

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Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>Mitigation Measure BIO-[A]: Protection of On-Site Open Space Natural Areas</p> <p>Prior to initiation of Project construction activities, all Open Space Natural Areas that are avoided on the southern portion of the Project site shall be protected in perpetuity through a recordation of a conservation easement or similar legal instrument. Long-term maintenance and monitoring activities for the on-site Open Space Natural Areas shall be outlined in a long-term management plan and submitted to CDFW and USFWS for review and approval. A non-wasting endowment for the long-term maintenance and monitoring activities for the on-site Open Space Natural Areas shall be funded the Project proponent, submitted to CDFW and the USFWS for review and approval, and held by an entity to be approved by CDFW and the USFWS.</p>	<p>Timing: Prior to initiation of Project activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of La Quinta and Project proponent</p> <p>Monitoring and Reporting: City of La Quinta</p>
<p>Mitigation Measure BIO-28: Nesting Birds</p> <p>Vegetation clearing shall be conducted outside of the peak nesting season, which is generally identified as February 1 through August 31, to the greatest extent feasible. 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</p>	<p>Timing: No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of La Quinta and Project proponent</p> <p>Monitoring and Reporting: City of La Quinta</p>

<p>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>Mitigation Measure BIO-[B]: Le Conte’s Thrasher</p> <p>Le Conte’s thrasher focused surveys shall be performed by a qualified avian biologist prior to vegetation removal or ground-disturbing activities following methods outlined on pages 6-8 of the <i>LeConte’s Thrasher (Toxostoma lecontei) Status and Nest Site Requirements in the Coachella Valley</i> (Hargrove, L. P. et al. 2020⁴), including the broadcast of song and calls by a qualified avian biologist with an appropriate permit. If active nests are found during the pre-construction nesting bird surveys, the qualified biologist shall inform CDFW and 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. 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>Timing: Prior to vegetation removal or ground-disturbing activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of La Quinta and Project proponent</p> <p>Monitoring and Reporting: City of La Quinta</p>
<p>Mitigation Measure BIO-26: Burrowing Owl Avoidance</p> <p>No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted within the Project site and surrounding area, including the selected off-site utility field parcel, by a qualified biologist</p>	<p>Timing: Habitat</p> <p>Assessment: No less than 60 days prior to the start of Project-related activities.</p> <p>Focused surveys: Prior to</p>	<p>Implementation: City of La Quinta and Project proponent</p> <p>Monitoring and Reporting: City of La Quinta</p>

<p>according to the specifications of the <i>Staff Report on Burrowing Owl Mitigation</i> (Department of Fish and Game, March 2012 or most recent version).</p> <p>Suitable habitat for burrowing owl has been identified within the Project site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> prior to vegetation removal or ground-disturbing activities. Focused burrowing owl surveys shall also be conducted in all areas identified through a habitat assessment as being suitable habitat for burrowing owls at the selected off-site utility field parcel. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent 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 avoidance is proposed. 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> (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</p>	<p>vegetation removal or ground-disturbing activities. Pre-construction surveys: No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p> <p>Methods: See Mitigation Measure</p>	
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<p>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>Mitigation Measure BIO-[C]: Desert Tortoise Surveys</p> <p>Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in <i>Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise</i> (USFWS 2019; https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise Pre-project%20Survey%20Protocol 2019.pdf), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. If desert tortoise is found to be present, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.</p> <p>No more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS 2019 desert tortoise survey methodology (<i>Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise</i>; https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise Pre-project%20Survey%20Protocol 2019.pdf). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign within the Project area and 50-foot buffer zone. Pre-activity surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the surveys shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the qualified biologist shall ensure desert</p>	<p>Timing: Focused surveys: Prior to commencing Project activities; Pre-construction surveys: No More than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of La Quinta and Project proponent</p> <p>Monitoring and Reporting: City of La Quinta</p>

<p>tortoise do not enter the Project area. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.</p>		
<p>Mitigation Measure BIO-[D]: Artificial Nighttime Lighting</p> <p>Throughout construction and the lifetime operations of the Project, the City and Project proponent shall eliminate all nonessential lighting throughout the Project area, including the selected offsite field utilities parcel, 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 shall ensure that all lighting for the Project is fully shielded, cast downward, 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 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>Timing: Throughout construction and the lifetime operations of the Project.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of La Quinta and Project proponent</p> <p>Monitoring and Reporting: City of La Quinta</p>
<p>Mitigation Measure BIO-[E]: CVMSHCP Compliance</p> <p>Prior to construction and issuance of any grading permit, the City of La Quinta 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.</p>	<p>Timing: Prior to construction and issuance of any grading permit.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of La Quinta</p> <p>Monitoring and Reporting: City of La Quinta</p>