

IV. Environmental Impact Analysis

B. Biological Resources

1. Introduction

This section of the Draft EIR addresses the potential impacts of the Project on biological resources. Specifically, this section identifies sensitive biological resources that are known to occur or have the potential to occur on or near the Project Site, assesses the potential significant impacts to these biological resources from the Project, and recommends mitigation measures to avoid, minimize, or reduce the significance of any potential impacts. In addition, this section analyzes the Project's incremental contribution to cumulative biological resources impacts from past, present, and reasonably foreseeable future projects. The biological resources and analysis described in this section are based on a literature review (included in **Appendix C** of this Draft EIR), the information and findings obtained during a biological survey conducted by ESA, and other sources referenced throughout this section.

2. Environmental Setting

a) Regulatory Framework

There are several plans, policies, and programs regarding biological resources at the federal, State, and local levels that apply to the Project. Described below, these include:

- Federal Endangered Species Act
- Migratory Bird Treaty Act
- Federal Noxious Weed Act
- California Endangered Species Act
- California Migratory Bird Protection Act
- California Fish and Game Code - Stream and Riparian Habitat, Fully Protected Species, and Species of Special Concern
- California Fish and Game Code Sections 3503 & 3513
- Sensitive Vegetation Communities
- City of Los Angeles General Plan
 - Framework Element

- Conservation Element
- Open Space Element
- City of Los Angeles Municipal Code – Protected Trees and Shrubs

(1) Federal

(a) *Federal Endangered Species Act*

The Federal Endangered Species Act (FESA) of 1973, as amended (16 United States Code [USC] Sections 1531 et seq.), provides the regulatory framework for the protection of plant and animal species (and their associated critical habitats), which are formally listed, proposed for listing, or candidates for listing as endangered or threatened under the FESA. The FESA has four major components: (1) provisions for listing species; (2) requirements for consultation with the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS); (3) prohibitions against “taking” of listed species; and (4) provisions for permits that allow an incidental “take.” The FESA also discusses recovery plans and the designation of critical habitat for listed species. Both the USFWS and the NMFS share the responsibility for administration of the FESA. During the CEQA review process, each agency is given the opportunity to comment on the potential of a project to affect listed plants and animals.

The FESA is implemented by USFWS through a program that identifies and provides for protection of various species of fish, wildlife, and plants deemed to be in danger of or threatened with extinction. As part of this regulatory act, the FESA provides for designation of critical habitat, defined in FESA Section 3(5)(A) as specific areas within the geographical range occupied by a species where physical or biological features “essential to the conservation of the species” are found and that “may require special management considerations or protection.” Critical habitat may also include areas outside the current geographical area occupied by the species that are nonetheless “essential for the conservation of the species.”

For purposes of this section, the following acronyms are used for federal status species:

- FE Federally-listed as Endangered
- FT Federally-listed as Threatened
- FPE Federally proposed for listing as Endangered
- FPT Federally proposed for listing as Threatened
- FPD Federally proposed for delisting
- FC Federal candidate species (former C1 species)

(b) *Migratory Bird Treaty Act*

All migratory bird species that are native to the United States or its territories are protected under the federal Migratory Bird Treaty Act (MBTA). The federal MBTA prohibits any person unless permitted by regulations, to “pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention...for the protection of migratory birds...or any part, nest, or egg of any such bird” (16 USC Section 703).¹

The list of migratory birds protected by the MBTA includes nearly all bird species native to the United States. The statute was extended in 1974 to include parts of birds, as well as eggs and nests. Thus, it is illegal under the MBTA to take, including killing, capturing, selling, trading, and transport, protected migratory bird species without prior authorization by the USFWS.² Activities that result in removal or destruction of an active nest (a nest with eggs or young being attended by one or more adults) would violate the MBTA. While destruction of a nest by itself is not prohibited under the MBTA, nest destruction that results in the unpermitted take of migratory birds or their eggs is illegal and fully prosecutable under the MBTA.

(c) *Federal Noxious Weed Act*

The Federal Noxious Weed Act (Public Law 93-629; 7 USC Sections 2801 et seq.), enacted on January 3, 1975, established a federal program to control the spread of noxious weeds. The Secretary of Agriculture was given the authority to designate plants as noxious weeds by regulation, and the movement of all such weeds in interstate or foreign commerce was prohibited except under permit. The Secretary was also given authority to inspect, seize and destroy products, and to quarantine areas if necessary to prevent the spread of such weeds. The Secretary was also authorized to cooperate with other federal, State, and local agencies, farmers associations, and private individuals in measures to control, eradicate, or prevent or retard the spread of such weeds.³

(2) State

(a) *California Department of Fish and Wildlife*

With respect to nesting birds, although the MBTA does not itself provide specific take avoidance measures, the USFWS and California Department of Fish and Wildlife (CDFW), over time, have developed a set of measures sufficient to demonstrate take avoidance, including during construction activities, which include conducting brush removal, tree trimming, building demolition and/or construction, or grading activities

¹ 16 USC Sections 703 et seq.; 50 CFR Part 10.

² USFWS, Migratory Bird Treaty Act, 2020.

³ USFWS, Federal Noxious Weed Act, 1975.

outside of the nesting season. CDFW biologists have defined the nesting season as February 15 through August 31 (January 15 to August 31 for raptors). If other timing restrictions make it impossible to avoid the nesting season, prior to issuance of a grading, construction or building permit including demolition permit, the following measures are required by the CDFW as described below:

1. Vegetation removal activities shall be scheduled outside the nesting season (September 1 to February 14 for songbirds; September 1 to January 14 for raptors) to avoid potential impacts to nesting birds. This includes vegetation removal associated with on-going fuel modification activities.

Any construction activities or fuel modification activities that occur during the nesting season (February 15 to August 31 for songbirds; January 15 to August 31 for raptors) shall require that all suitable habitat be thoroughly surveyed for the presence or absence of nesting birds by a qualified biologist monitor (i.e., a professional biologist with a minimum of two years of avian survey experience or equivalent) before the commencement of clearing. If any active nests are detected, a buffer of at least 300 feet (500 feet for raptors), or as determined appropriate by the qualified biologist monitor, shall be delineated, flagged, and avoided until the nesting cycle is complete as determined by the qualified biologist monitor.

(b) California Endangered Species Act

Under the California Endangered Species Act (CESA), the CDFW is responsible for maintaining a list of threatened and endangered species. The CDFW also maintains a list of candidate species, which are species formally under review for addition to either the list of endangered species or the list of threatened species.

The CESA prohibits the take of plant and animal species that the California Fish and Game Commission has designated as either threatened, rare, or endangered in California. "Take" in the context of this regulation means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill a listed species. The take prohibitions also apply to candidates for listing under the CESA. However, CESA Section 2081 allows the CDFW to issue permits for the minor and incidental take of species by an individual or permitted activity listed under the CESA.

In accordance with the requirements of the CESA, an agency reviewing a project within its jurisdiction must determine if any State-listed endangered, rare, threatened, or candidate species could be present in the project area. The agency also must determine if the project could have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any project that could affect any State-listed endangered, rare, threatened, or candidate species.

For the purposes of this section, the following acronyms are used for State listed status species:

- SE State-listed as Endangered
- ST State-listed as Threatened
- SR State-listed as Rare
- SCE State candidate for listing as Endangered
- SCT State candidate for listing as Threatened

(c) *California Migratory Bird Protection Act*

Assembly Bill 454 (AB 454), the CMBTA, which expires on January 20, 2025, reenacted the existing provisions of the law regarding the taking or possession of any migratory non-game bird as designated in the MBTA, or any part of such migratory non-game bird, by making it unlawful, except as provided by the rules and regulations adopted by the U.S. Secretary of the Interior or rules or regulations that are inconsistent with the California Fish and Game Code., or subsequent rules or regulations adopted pursuant to the MBTA.

(d) *California Fish and Game Code - Stream and Riparian Habitat, Fully Protected Species, and Species of Special Concern*

Pursuant to California Fish and Game Code Section 1600, CDFW has authority over all perennial, intermittent, and ephemeral rivers, streams, and lakes in the state, and requires any person, state or local governmental agency, or public utility to notify the CDFW before beginning any activity that would “substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake” that supports fish or wildlife resources.

A stream is defined as a “body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation” (California Code of Regulations, Title 14 §1.72). A Lake or Streambed Alteration Agreement may be required for any Proposed Project that would result in an adverse impact to a river, stream, or lake. CDFW jurisdiction typically extends to the top of the bank and out to the outer edge of adjacent riparian vegetation if present. However, CDFW can take jurisdiction over a body of flowing water and the landform that conveys it, including water sources and adjoining landscape elements that are byproducts of and affected by interactions with flowing water without regard to size, duration, or the timing of flow.

The classification of “fully protected species” was the CDFW’s initial effort to identify and provide additional protection to those animals that were rare or faced possible extinction.

Lists were created for fish, amphibians and reptiles, birds, and mammals. Most of the species on these lists have subsequently been listed under CESA and/or FESA. The California Fish and Game Code Sections (fish in Section 5515, amphibians and reptiles in Section 5050, birds in Section 3511(b), and mammals in Section 4700) dealing with “fully protected” species state that these species “may not be taken or possessed at any time and no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected species,” although take may be authorized for necessary scientific research. This language makes the “fully protected” designation the strongest and most restrictive regarding the “take” of these species. In 2003, the California Fish and Game Code sections dealing with fully protected species were amended to allow the CDFW to authorize takings resulting from recovery activities for State-listed species.

Species of “special concern” are broadly defined as animals not listed under the FESA or CESA but that are nonetheless of concern to the CDFW because they are declining at a rate that could result in listing or because they historically occurred in low numbers and known threats to their persistence currently exist.⁴ This designation is intended to result in special consideration for these animals by the CDFW, land managers, consulting biologists, and others, and is intended to focus attention on the species to help avert the need for listing under FESA and CESA, and recovery efforts that might ultimately be required. This designation is also intended to stimulate collection of additional information on the biology, distribution, and status of poorly known at-risk species, and focus research and management attention on them. Although these species generally have no special legal status, they may require consideration under CEQA during project review if they meet the definition of endangered, rare or threatened species in CEQA Guidelines Section 15380 which is not limited to listed species.

For the purposes of this section, the following acronyms are used for State protected or special status species:

SFP	State Fully Protected
SSC	California Species of Special Concern

(e) *California Fish and Game Code Sections 3503 and 3513*

According to Section 3503 of the California Fish and Game Code it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird (except English sparrows (*Passer domesticus*) and European starlings (*Sturnus vulgaris*)). Section 3503.5 specifically protects birds in the orders Falconiformes and Strigiformes (birds-of-prey). Section 3513 essentially overlaps with the MBTA, prohibiting the take or possession of any migratory non-game bird. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered a “take” by the CDFW. The same procedures identified

⁴ CDFW, Species of Special Concern, <https://wildlife.ca.gov/Conservation/SSC>, accessed April 17, 2023.

above to avoid a violation of the MBTA are recognized by the CDFW to avoid a take in violation of these provisions.

(f) *Sensitive Vegetation Communities*

Sensitive vegetation communities are natural communities and habitats that are unique, of relatively limited distribution in the region, or of particularly high wildlife value. These resources have been defined by federal, State, and local conservation plans, policies, or regulations. The CDFW ranks such vegetation communities as “threatened” or “very threatened” and keeps records of their occurrences in the California Natural Diversity Database (CNDDDB). Sensitive vegetation communities are also identified by the CDFW on its List of California Natural Communities Recognized by the CNDDDB. Impacts to these vegetation communities and habitats identified in local or regional plans, policies, regulations, or by federal or State agencies must be considered and evaluated under CEQA.⁵

(3) Local

(a) *City of Los Angeles General Plan Framework Element*

The Citywide General Plan Framework Element (Framework Element) establishes the conceptual basis for the City’s General Plan.⁶ The Framework Element sets forth a comprehensive Citywide long-range growth strategy and defines Citywide policies regarding land use, housing, urban form and neighborhood design, open space and conservation, economic development, transportation, infrastructure and public services. Chapter 6, Open Space and Conservation, of the Framework Element identifies goals, objectives, and policies for the City relative to biological resources. Objective 6.1 of the Open Space and Conservation Chapter of the Framework Element specifies the protection of “the City’s natural settings from the encroachment of urban development, allowing for the development, use, management, and maintenance of each component of the City’s natural resources to contribute to the sustainability of the region.” Policy 6.1.2 requires the coordination of “City operations and development policies for the protection and conservation of open space resources, by preserving habitat linkages, where feasible, to provide wildlife corridors and to protect natural animal ranges.”

(b) *City of Los Angeles General Plan Conservation Element*

The City of Los Angeles General Plan Conservation Element (Conservation Element) adopted in 2001, contains policies related to the identification and protection of sensitive plant, animal species, significant ecological areas (SEAs), and other resources. State law recognized that State requirements regarding the content of one element may overlap with the requirements of another. As allowed by State law, Los Angeles has opted to

⁵ California Department of Fish and Wildlife, Natural Communities, <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities>, Accessed April 17, 2023.

⁶ City of Los Angeles Department of City Planning, Citywide General Plan Framework, An Element of the Los Angeles General Plan, 1995.

incorporate natural open space agricultural and other open space features of the State's open space requirements into the Conservation Element, which primarily addresses preservation, conservation, protection, and enhancement of the City's natural resources.

State law intends that conservation elements address "conservation, development, and utilization of natural resources including water and hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources." State general plan legislation was amended in 1995 to require that preparation of the water portion of the general plan address water and land reclamation, water (including ocean) pollution, regulation and use of land in stream beds, erosion, watershed protection, flood control and rock, sand and gravel resources. Open space, as defined by the California Government Code Section 65560, is "any parcel or area of land or water that essentially is unimproved and devoted to an open-space use," including:

1. Preservation of natural resources (e.g., preservation of flora and fauna [animal habitats], bird flyways, ecologic and other scientific study areas, watershed);
2. Managed production of resources (e.g., recharge of ground water basins or containing mineral deposits that are in short supply);
3. Outdoor recreation (e.g., beaches, waterways, utility easements, trails, scenic highway corridors); and/or
4. Public health and safety (e.g., flood, seismic, geologic or fire hazard zones, air quality enhancement).⁷

(c) City of Los Angeles General Plan Open Space Element

The City of Los Angeles General Plan Open Space Element (Open Space Element) includes goals, objectives, policies, and programs directed towards the regulation of publicly- and privately-owned lands both for the benefit of the public as a whole and for the protection of individuals from the misuse of these lands. The Open Space Element provides guidance and general policies for the conservation and preservation of open space areas containing the City's environmental resources including air and water.⁸

(d) City of Los Angeles Municipal Code – Protected Trees and Shrubs

Native species of oak (*Quercus* sp., except scrub oak [*Q. dumosa*]), Southern California black walnut (*Juglans californica*), California bay laurel (*Umbellularia californica*) and western sycamore (*Platanus racemosa*) trees at least four inches in diameter (cumulative for multi-trunked trees) at 4.5 feet above the ground level at the base of the tree or diameter-at-breast height (DBH) are protected in the City under Ordinance No. 177,404, which became effective April 23, 2006. On December 11, 2020, the City adopted

⁷ City of Los Angeles Department of City Planning, Citywide General Plan Conservation Element, 2001, page I-2.

⁸ City of Los Angeles Department of City Planning, Citywide General Plan Open Space Plan, 1973, page 1.

Ordinance No. 186,873, extending protection status to include two native shrub species, the Mexican Elderberry (*Sambucus mexicana*) and toyon (*Heteromeles arbutifolia*) shrubs and amending provisions of Los Angeles Municipal Code (LAMC) Sections 12.21, 17.02, 17.05, 17.06, 17.51, 46.00, 46.01, 46.02, 46.03, 46.04, and 46.06.

LAMC Section 17.05 prohibits, without a permit, the removal of any regulated protected tree, including “acts which inflict damage upon root systems or other parts of the tree...” and requires replacement of all regulated protected trees that are removed on at least a four-to-one basis with trees that are of a protected variety. Replacement trees must be at least 15 gallons or larger, measure one inch or more in diameter at a foot above the base, and measure at least seven feet in height from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. Similarly, a protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees, to the extent feasible as determined by the Advisory Agency, Board of Public Works, or certified arborist. Further, when replacing more than two protected trees or shrubs, the permit at issue must be considered at a full public hearing of the Board of Public Works. The City also requires preparation of a report by a tree expert identifying protected on-site trees, impacts to trees related to grading and construction, and mitigation measures for impacts to protected trees. However, native trees that have been planted as part of a tree planting program are exempt from these ordinances and are not considered protected.

b) Existing Conditions

A biological survey was conducted by ESA to document existing biological conditions on the Project Site on March 19, 2020 (Biological Survey). The Project Site is located in a completely developed urban area in the community of Universal City within the City of Los Angeles. A tree survey was also conducted by Carlberg Associates in June 2022 and the results are summarized in the Tree Report provided in Appendix C (Biological Resources Documentation) of this Draft EIR.

(1) General Characterization of the Project Site

The Project Site is situated in the Sherman Oaks–Studio City–Toluca Lake–Cahuenga Pass Community Plan on a promontory (a point of high land) that descends moderately to the west, south, and east at a grade of approximately 50 percent (2:1 horizontal-to-vertical gradient). The top of the promontory is approximately 707 feet above mean sea level (amsl) and the on-site low point is approximately 670 feet amsl, with an overall elevation change of approximately 37 feet across the Project Site.

The potential for special-status species to occur on the Project Site is based on the presence of suitable habitat, the known distribution and habitat requirements of a species, and the proximity of the site to previously recorded occurrences. Additional sources of information used to determine habitat suitability and potential for presence of special-

status species include aerial photographs, topographic maps, soil survey maps, geological maps, and Project plans.

Prior to the Biological Survey, a literature review was conducted by ESA, which included a review of the CDFW CNDDDB and the California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants. (See Appendix C of this Draft EIR, Biological Resources Documentation). Both of the databases are sensitive resource databases for special-status species known to occur in the Project vicinity. During the Biological Survey, the existing land types and natural communities were documented and an inventory was compiled of all observed plant and wildlife species located on the Project Site.

The plant taxonomy provided herein uses the nomenclature provided in *The Jepson Manual: Vascular Plants of California Second Edition* (Baldwin, 2012)⁹; the wildlife taxonomy uses *Western Reptiles and Amphibians* (Stebbins, 2003)¹⁰ for herpetofauna; *The Sibley Field Guide to Birds of Western North America* (Sibley, 2013)¹¹ for birds; and *Mammals of California* (Jameson and Peeters, 2004)¹² for mammals. Aerial photographs were reviewed to ensure that the entire Project Site was surveyed, with special attention to sensitive habitats or those areas potentially supporting special-status flora or fauna. Biological resources evaluated include general plant and wildlife inventories, as well as sensitive habitats, special-status plant and wildlife species, and wildlife movement corridors.

(2) Land Cover Types and Vegetation Communities

The nomenclature used to describe the vegetation is based on *A Manual of California Vegetation, Second Edition (Manual)*¹³ or land cover types are characterized based on species dominance when not recognized in the *Manual*. Land cover types located within the Project Site and surrounding areas are described in detail below. No vegetation communities exist on the Project Site.

The entire Project Site (7.26 acres) is developed with a hotel, including a paved access road, parking, ornamental landscaping, and other hotel related improvements. Based on the Biological Survey conducted, ornamental landscaping within the Project Site is comprised mostly of non-native, landscape species, which include bougainvillea (*Bougainvillea buttiana*), Mexican fan palm (*Washingtonia robusta*), rosemary (*Rosmarinus officinalis*), gum tree (*Eucalyptus* sp.), weeping fig (*Ficus benjamina*), queen

⁹ Baldwin, B. *The Jepson Manual: Vascular Plants of California Second Edition*. University of California Press. 2012.

¹⁰ Stebbins, Robert. *Western Reptiles and Amphibians*. Houghton Mifflin Company, New York. 1985.

¹¹ Sibley, D. *The Sibley Field Guide to Birds of Western North America*. Alfred A. Knopf, New York. 2013.

¹² Jameson, E.W. and Peeters, H.J. *Mammals of California*. University of California Press, Berkeley and Los Angeles, California. 2004.

¹³ Sawyer, John O., Todd Keeler-Wolf, and J. Evens. *A Manual of California Vegetation, 2nd Edition*. California Native Plant Society. United States of America. 2009.

palm (*Syagrus romanzoffiana*), jade plant (*Crassula ovata*), century plant (*Agave* sp.), Aleppo pine (*Pinus halepensis*), goldentop (*Lamarckia aurea*), trailing lantana (*Lantana montevidensis*), asparagus fern (*Asparagus aethiopicus*), London rocket (*Sisymbrium irio*), giant yucca (*Yucca elephantipes*), butterfly iris (*Dietes iriodes*), jacaranda (*Jacaranda mimosifolia*) and trailing African daisy (*Osteospermum fruticosum*). In addition, native species observed intermixed within the ornamental landscaping include laurel sumac (*Malosma laurina*), deerweed (*Acmispon glaber* var. *glaber*), and birch-leaf mountain-mahogany (*Cercocarpus betuloides*).

As described in the Tree Report (Appendix C), 125 trees were identified during the tree survey of the Project Site and immediately surrounding properties. Of these 125 trees, 120 trees are considered “significant” as defined by the City’s Planning Department. None of the inventoried trees are of a “protected” species and there are no City right-of-way trees associated with this Project. Of the 125 trees inventoried, 10 are located outside of the Project Site limits on surrounding properties, but overhang the Project Site. In addition, the Tree Report also inventoried 104 palms, including 100 palms on the Project Site and four palms that overhang the Project Site.¹⁴

(3) Wildlife Movement Corridors

Wildlife corridors link together areas of suitable habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance. The fragmentation of open space areas by urbanization creates isolated “islands” of wildlife habitat. In the absence of habitat linkages that allow movement to adjoining open space areas, various studies have concluded that some wildlife species, especially the larger and more mobile mammals, will not likely persist over time in fragmented or isolated habitat areas because they prohibit the infusion of new individuals and genetic material.^{15,16,17,18}

Wildlife movement activities usually fall into one of three movement categories: (1) dispersal (e.g., juvenile animals from natal areas, or individuals extending range distributions); (2) seasonal migration; and (3) movements related to home range activities (foraging for food or water, defending territories, searching for mates, breeding areas, or cover). Although the nature of each of these types of movement is species specific, large open spaces will generally support a diverse wildlife community representing all types of

¹⁴ Palms are not trees as they are in the grass family and are not subject to the City’s tree replacement standards.

¹⁵ R.M. MacArthur and E. O. Wilson, *The Theory of Island Biogeography*, Princeton University Press: Princeton, New Jersey, 1967.

¹⁶ M. E. Soulé, *Viable Populations for Conservation*. Sinaur Associates Inc., Publishers, Sunderland, Massachusetts, 1987.

¹⁷ L. D. Harris and P. B. Gallagher, *New Initiatives for Wildlife Conservation: The Need for Movement Corridors*, 1989, pages 11-34 in G. Mackintosh, ed. *Preserving Communities and Corridors*. Defenders of Wildlife. Washington D.C.

¹⁸ A. F. Bennett, *Habitat Corridors and the Conservation of Small Mammals in a Fragmented Forest Environment*. *Landscape Ecol.* 4:109-122, 1990.

movement.¹⁹ Each type of movement may also be represented at a variety of scales from non-migratory movement of amphibians, reptiles, and some birds, on a “local” level to many square mile home ranges of large mammals moving at a “regional” level.

Due to its urban setting, the Project Site supports limited potential live-in and marginal movement habitat for species on a local scale (i.e., birds and small mammal species). The limited potential for local movement is due to the limited resources for wildlife as a result of the existing commercial development, which is subject to frequent human disturbance. The Project Site does not facilitate wildlife movement for species on a regional scale and is not identified as a regionally important dispersal or seasonal migration corridor because only-urban tolerant species are present, and there is no suitable adjacent wildlife habitat to which to disperse or migrate. As discussed above, wildlife corridors link together areas of suitable habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance. The Project Site is located adjacent to major roadways and urban development. The Project Site is not within any linkages identified by the South Coast Missing Linkages report; the nearest linkage design identified is the Santa Monica – Sierra Madre Connection, located approximately 15 miles to the northwest.²⁰ Since the Project Site is not identified as a linkage by the South Coast Wildlands and it does not support habitat that connects two or more habitat patches that would otherwise be fragmented or isolated from one another, the Project Site is not considered a wildlife corridor. No regional movement through the Project Site is possible as a consequence of the urbanized region and the proximity to a major transportation routes.

Regional movement through the Project Site and the surrounding vicinity is greatly restricted due to the urbanization of the region and the proximity to a major freeway. The southern portion of the Project Site lies immediately adjacent to the Hollywood Freeway. The eastern, western, and northern portions of the Project Site are located adjacent to major roadways and also urban development, including the Universal Studios theme park. Although the Los Angeles River channel is less than 0.35 mile to the north, it would not provide wildlife movement to the Project Site because of the nearly vertical walls of the channel and the intervening urban development blocking direct access.

Movement on a local scale likely occurs with species adapted to urban environments (i.e., bats, common birds, rodents). Local movement, however, is not restricted for aerial species, such as bats and birds, which have the ability to travel over or around potential movement obstacles, such as roadways or construction sites. On the Project Site and adjacent areas, numerous trees, shrubs and other vegetation are present that would allow bat and bird species to roost, nest and forage.

¹⁹ L. Fahrig and G. Merriam, Habitat Patch Connectivity and Population Survival. *Ecology*. 66:1762-1768, 1985.

²⁰ South Coast Wildlands, South Coast Missing Linkages: A Wildland Network for the South Coast Ecoregion, March 2008.

(4) Sensitive Biological Resources

The following is a discussion of the sensitive biological resources that occur or have the potential to occur on the Project Site based on existing conditions and habitat requirements for special-status species. Special-status species are those that have been afforded special recognition by federal, State, or local resource conservation agencies and organizations. The CNPS and CNDDB database were queried for special-status species records within the Burbank United States Geological Survey topographic quadrangle and the surrounding eight quadrangles, including San Fernando, Sunland, Condor Peak, Van Nuys, Pasadena, Beverly Hills, Hollywood, and Los Angeles.

(a) *Sensitive Natural Communities*

A review of the most current edition (July 2022)²¹ of CDFW's *California Natural Community List* developed for the CNDDB was conducted to determine if any of the plant communities mapped within the Project Site are considered "rare and worthy of consideration". CDFW considers any plant alliance with a State (S; within California) rank of S1 to S3 to be considered a sensitive community. Global (G; full natural range within and outside of California) rarity ranks follow the same system as for State ranks.

The Project Site does not support any CNDDB high inventory priority (i.e., G3/S3 or rarer) communities that are considered sensitive due to their decline in the region and/or their ability to support sensitive species.

(b) *Special-Status Plant Species*

Special-status plants include those listed or candidates for listing by the USFWS and CDFW, and species considered special-status by both CDFW and CNPS (California Rare Plant Ranks [CRPRs] 1A, 1B, 2A, and 2B). Several plant species were reported in the vicinity based on CNDDB and CNPS searches, totaling 42 species within the nine-quadrangle search, which includes the Project Site. No special-status plant species were observed within the Project Site during the Biological Survey, and none are expected to occur within the Project Site for one or more of the following reasons: 1) the lack of suitable habitat within the Project Site, 2) the Project site location outside of the species' elevation range or distribution, or 3) the lack of suitable microhabitat (e.g., soils, hydrology, etc.) within the Project Site. Thus, focused plant surveys are not warranted. Furthermore, the Project Site is not within critical habitat for any listed plant species.

(c) *Special-Status Wildlife Species*

Special-status wildlife species include those species listed as Endangered or Threatened under the FESA or CESA, candidates for listing by the USFWS or CDFW, and species of special concern to the CDFW. A total of 47 special-status wildlife species were reported in the nine-quadrangle search based on CNDDB, which includes the Project Site. Four of the species were identified as having a low or moderate potential to occur within or make

²¹ CDFW. *California Natural Community List*. July 5, 2022.

use of the Project Site based on the literature review and presence of suitable habitat on the Project Site. No special-status species have a high potential to occur on site, and no special-status wildlife species were observed on the Project Site during the Biological Survey. The four species with potential to occur on the Project Site are discussed in more detail below.

(i) *Species with Potential to Occur On-Site*

Western mastiff bat (*Eumops perotis californicus*): This bat species is a State species of special concern. This species is associated with many open, semi-arid to arid habitats, including conifer and deciduous woodlands, coastal scrub, annual and perennial grasslands, palm oases, chaparral, desert scrub, and urban settings.

Western mastiff bat was determined to have a low potential to roost and forage on the Project Site. The species is found primarily in desert areas and favors habitats with open space such as woodlands and grasslands. The numerous palms on-site could potentially provide a temporary roosting site for western mastiff bat although typical roosts are in crevices of cliffs. The nearest CNDDDB occurrence of this species within the vicinity of the Project Site was recorded in 2007, approximately six miles to the south, and most records for this species occur much further southeast and to the east.

Western yellow bat (*Lasiurus xanthinus*): This bat species is a State species of special concern. The preferred habitat for this species is palms; however, the species is also associated with palm oases, riparian areas, or lush, tropical landscapes.

Western yellow bat was determined to have a moderate potential to roost and forage due to the numerous palms on-site. The nearest CNDDDB occurrence of this species within the vicinity of the Project Site was recorded in 1984, approximately two miles to the south.

Silver-haired bat (*Lasionycteris noctivagans*): This bat species is considered sensitive by the Western Bat Working Group and occurs in boreal, coniferous, and deciduous forest near bodies of water, such as rivers, lakes, streams, estuaries or ponds. They can also be found in dead trees that have loose bark to provide cover and cavities in these trees.

Silver-haired bat was determined to have a low potential to roost and forage on the Project Site. While the numerous palms on-site are not considered any of the forest types described above, these palms could potentially provide a temporary roosting site for silver-haired bat. The nearest CNDDDB occurrence of this species within the vicinity of the Project Site was recorded in 1985, approximately eight miles to the northeast.

Townsend's big-eared bat (*Corynorhinus townsendii*): This bat species is a State species of special concern. This species is associated with montane forests, thick with pine (*Pinus* sp.), Douglas fir and aspen (*Populus* sp.) and bounded by shrub and grasslands.

Townsend's big-eared bat was determined to have a low potential to roost and forage on the Project Site. While the existing ornamental landscaping and numerous palms on-site are not consistent with the typical forest habitat described above, the palms could potentially provide a temporary roosting site for Townsend's big eared bat. The nearest CNDDDB occurrence of this species within the vicinity of the Project Site was recorded in 2011, approximately 20 miles to the northeast.

(5) Migratory Birds and Raptors

The Project Site supports potential nesting and foraging habitat for numerous migratory birds and raptor species. Several common species of birds observed on the Project Site during the Biological Survey included lesser goldfinch (*Spinus psaltria*), house finch (*Haemorhous mexicanus*), song sparrow (*Melospiza melodia*), and hooded oriole (*Icterus cucullatus*).

(6) Critical Habitat

Under the FESA, the USFWS and National Marine Fisheries Service (NMFS) are required to designate Critical Habitat for endangered and threatened species. Critical Habitat is defined as areas of land, water, and air space containing the physical and biological features essential for the survival and recovery of endangered and threatened species. Designated Critical Habitat includes sites for breeding and rearing, movement or migration, feeding, roosting, cover, and shelter. Designated Critical Habitats require special management and protection of existing resources, including water quality and quantity, host animals and plants, food availability, pollinators, sunlight, and specific soil types. Critical Habitat delineates all suitable habitat, occupied or not, essential to the survival and recovery of the species.

The nearest designated Critical Habitat is approximately 17 miles to the southeast of the Project Site, for coastal California gnatcatcher (*Polioptila californica californica*).²² There is no connectivity between the Project Site and the Designated Critical Habitat because the locations are separated by residential development and freeways and highways and the Project Site does not contain any suitable habitat for the species.

²² US Fish and Wildlife Service, Critical Habitat for Threatened & Endangered Species. 2022. <https://fws.maps.arcgis.com/home/webmap/viewer.html?webmap=9d8de5e265ad4fe09893cf75b8dbfb77>, accessed [July 5, 2022].

3. Project Impacts

a) Thresholds of Significance

In accordance with Appendix G of the CEQA Guidelines, a Project would have a significant impact related to biological resources if it would:

- a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or*
- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or*
- c) *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means; or*
- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; or*
- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or*
- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.*

In assessing impacts related to biological resources in this section, the City used Appendix G as the thresholds of significance. The analysis utilizes factors and considerations identified in the 2006 L.A. CEQA Thresholds Guide (Thresholds Guide), as appropriate, to assist in answering the Appendix G Threshold questions. The criteria identified below from the Thresholds Guide were used where applicable and relevant to assist in analyzing the Appendix G thresholds.

The Thresholds Guide identifies the following criteria to evaluate biological resource impacts:

- The loss of individuals, or the reduction of existing habitat, of a state or federal listed endangered, threatened, rare, protected, or candidate species, or a Species of Special Concern or federally listed critical habitat;

- The loss of individuals or the reduction of existing habitat of a locally designated species or a reduction in a locally designated natural habitat or plant community;
- Interference with wildlife movement/migration corridors that may diminish the chances for long-term survival of a sensitive species;
- The alteration of an existing wetland habitat; or
- Interference with habitat such that normal species behaviors are disturbed (e.g., from the introduction of noise, light) to a degree that may diminish the chances for long-term survival of a sensitive species.

b) Methodology

The analysis below examines the potential direct and indirect impacts to plant and wildlife resources that may occur as a result of implementation of the Project. Direct impacts involve the loss, modification or disturbance of natural habitats (i.e., vegetation or plant communities), which in turn, directly affect plant and wildlife species dependent on that habitat. Direct impacts also include the destruction of individual plants or wildlife, which is typically the case in species of low mobility (i.e., plants, amphibians, reptiles, and small mammals). The collective loss of individuals in these manners may also directly affect regional population numbers of a species or result in the physical isolation of populations thereby reducing genetic diversity and, hence, population stability.

Indirect impacts involve the effects of increases in ambient levels of sensory stimuli (e.g., noise, light), unnatural predators (e.g., domestic cats and other non-native animals), and competitors (e.g., exotic plants, non-native animals). Indirect impacts may be associated with the construction and/or eventual habitation/operation of a project; therefore, these impacts may be both short-term and long-term in their duration. These impacts are commonly referred to as “edge effects” and may result in changes in the behavioral patterns of wildlife and reduced wildlife diversity and abundance in habitats adjacent to the Project Site.

The determination of impacts in this analysis is based on both the Project development and the sensitivity of plant and wildlife species to be affected.

The analysis of wildlife movement on and near the Project Site is based on information compiled from literature, analysis of aerial photographs and topographic maps, direct observations and recordings made in the field during the Biological Survey, and an analysis of existing wildlife movement functions and values, such as observed habitat and native vegetation that could support wildlife movement, as well as trails and evidence of frequent use.

c) Project Design Features

No specific Project Design Features are proposed with regard to biological resources.

d) Analysis of Project Impacts

Threshold a) *Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

(1) Impact Analysis

(a) *Candidate, Sensitive, or Special-Status Plants*

(i) *Direct Impacts*

Development of the Project Site would result in the direct removal of numerous common plant species and ornamental tree species. Common plant and tree species present within the Project Site occur in large numbers throughout the region and their removal does not meet the significance thresholds defined above.

As such, their removal does not meet the significance threshold defined above for impacts to candidate, sensitive, or special status species.

A total of 42 special-status plant species were reported in the vicinity of the Project Site based on CNDDDB and CNPS records searches. Because of the high level of human disturbance and the urban setting, none of the 42 species are expected to occur on the Project Site because the species occur within coastal sage scrub, chaparral, and natural woodland habitats, none of which occur on or near the Project Site and none were observed during the Biological Survey. Therefore, the Project would have no direct impacts on candidate, sensitive, or special-status plant species.

(ii) *Indirect Impacts*

Indirect impacts to special-status plant species from the Project would not meet the significance threshold defined above because none of the 42 special status plant species identified in the records searches are expected to occur within the Project Site. Indirect Project construction and operation activities, including changes in the ambient levels of light and noise, would not result in significant impacts to special-status, candidate, and/or sensitive plant species because only common or cultivated species are found within the Project Site and no candidate, sensitive or special-status species are expected.

(b) *Candidate, Sensitive, or Special-Status Wildlife*

(i) *Direct Impacts*

Development of the Project Site would potentially result in the disruption and removal of habitat and loss or displacement of special-status wildlife species.

A total of 43 special-status wildlife species of the 47 such species identified as recorded in the Project vicinity in available databases are not considered to have a potential to occur within the Project Site due to the lack of suitable habitat or because the Project Site is outside the known distribution range for the species. Since these 43 species are not expected to be present on the Project Site, the Project would have no impact on these species.

However, four special-status bat species were identified as having a potential to occur within the Project Site or use the Project Site, at least on a temporary basis, based on literature review and habitat assessment of the Project Site. However, none of the four species with the potential to occur were observed on the Project Site during the Biological Survey; these species are discussed in more detail below. One of the four species, western yellow bat (roosting and foraging), has a moderate potential to occur on the Project Site.

Silver-haired bat, defined as sensitive by WBWG, was determined to have a low potential to forage and roost on the Project Site. Western mastiff bat, and Townsend's big-eared bat, defined as State species of special concern, were also determined to have a low potential on site to forage and roost. As discussed above, western yellow bat has a moderate potential to occur on site as fan palms occur on the Project Site, and this bat species is known to roost in palms that have palm skirts or dead palm fronds which provide roosting cover. The Project would have a potentially significant direct impact on these four bat species when tree removal commences. **Although bats were not observed on the Project Site, due to their potential presence, the Project is considered to have potentially significant direct impacts to the aforementioned bat species during the maternity roosting season (generally April 1 through August 31). Therefore, the Project has a substantial direct adverse effect on species identified as special-status species by CDFW, and a potentially significant impact would occur without mitigation.**

(ii) *Indirect Impacts*

Indirect effects of the Project would be similar to those currently experienced from existing on-site conditions, because the Project land use (i.e., Hotel Expansion Building, Meeting Room Addition, parking) would be similar to the existing land uses (i.e., Existing Hotel Building, Existing Ancillary Building, parking). As discussed above, indirect impacts to special-status wildlife species could include an increase in ambient levels of sensor stimuli (e.g., noise and light), the introduction of unnatural predators (non-native animals), and competitors (exotic plants, etc.). However, construction and operation of the Project will not introduce any unnatural predators or competitors because non-native animals are not promoted by construction or operational activities, and invasive plant species are not included in the Project's landscape palette.

Lighting impacts associated with Project construction would be limited to night lighting for security purposes, if warranted, which would be similar to existing conditions. Construction lighting would not impact the long-term survival of a special-status bat

species because the duration would be temporary and intermittent and the effects would be similar to the operational security lighting present under existing conditions. Therefore, impacts from temporary construction lighting would not be significant. During operation of the Project, exterior lighting would be comprised of building mounted lights, pool deck lights, interior building lights visible through glass/windows, pathway lighting, tree up-lighting, parking and street lighting. Pedestrian areas would be illuminated for security. Project lighting would be installed in a manner that would minimize light trespass to the surrounding areas and would incorporate shielding as needed. New light fixtures would be directed downward so that the light source would not be visible from off-site areas. The proposed operational lighting would be similar to the existing ambient lighting. Thus, indirect impacts to special-status bat species associated with a change in the on-site ambient lighting would be low, and, as such, operational lighting impacts would not diminish the chances for long-term survival of a special-status bat species. Therefore, Project indirect impacts due to minimal change to on-site ambient lighting would be less than significant.

There would also be additional noise impacts to special-status bat species associated with Project construction; however, construction activities would be temporary on an intermittent basis, and potential on-site roosts in palms with dead fronds attached would be removed during the initial construction phase. As such, impacts would not diminish the long-term survival of a special-status bat species and, therefore, would be less than significant.

Ambient operational noise would be increased over existing conditions (see Table IV-I.10, *Estimated Outdoor Event Related Noise Levels*) but this increase would not significantly impact special-status bat species in consideration of the existing ambient noise and current developed nature of the Project Site. Noise levels with the Project, based on a distance of 25 feet from an outdoor speaker, would not exceed a 5 dBA increase above ambient noise during the day, or 3 dBA increase at night. Potential palm roosts and foraging areas would be at a greater distance from the speaker and the noise increase would be less. Further, indirect impacts associated with a change in the on-site operational noise would be low for all surrounding developed and undeveloped areas and would not significantly impact special-status bat species as the operational noise levels would not exceed a 5 dBA ambient level threshold increase during daytime or nighttime hours, as shown in Table IV.I-13, *Composite Noise Levels from Project Operations*. It is documented that noise affects bats in foraging behavior and these effects differ among species and along with the amplitude and frequency of the noise.^{23,24} Where noise may

²³ The California Department of Transportation. 2016. *Technical Guidance for the Assessment and Mitigation of the Effects of Traffic Noise and Road Construction Noise on Bats*. July. (Contract 43A0306.) Sacramento, CA. Prepared by ICF International, Sacramento, CA, and West Ecosystems Analysis, Inc., Davis, CA.

²⁴ Luo, J., B. M. Siemers and K. Koselj. 2015. How anthropogenic noise affects foraging. *Global Change Biology* 21: 3278-3289.

mask the echolocation sounds emitted by bats, they avoid foraging in such areas.²⁵ No formal noise decibel threshold has been established for impacts to bat species, so the threshold for humans has been used for the purposes of this analysis. The Project's operational noise impact on special-status bat species would be less than significant.

Therefore, Project construction and operation activities, including changes in the ambient levels of noise and light, would not result in significant indirect impacts to special-status, candidate, and/or sensitive bat species. As such, indirect impacts to special-status, candidate, and/or sensitive bat species would be less than significant.

(2) Mitigation Measures

As no candidate, sensitive, or special-status plants occur on the Project Site, no impacts would occur. Thus, no mitigation measures for candidate, sensitive, or special-status plants are required.

With implementation of the following mitigation measure potentially significant direct impacts on special-status wildlife resources would be reduced to a less-than-significant level.

BIO-MM-1: Due to the presence of potentially suitable roosting and foraging habitat (palms) for western mastiff bat, western yellow bat, silver-haired bat, and Townsend's big-eared bat, the Project shall carry out the following steps and to the satisfaction of the City:

- Any construction or palm removal activities that occur during the maternity roosting season for special-status bat species (March 1 through September 30) shall require a qualified biologist to conduct a pre-construction or palm removal survey, using sonic bat detectors (e.g., Anabat) and night vision goggles for an emergence survey (for at least one-hour after sunset) to determine whether special-status bat species are roosting within palms that would be removed. The surveys shall be conducted at dusk and after nightfall by a biologist. A qualified biologist is a biologist with specialized bat experience including the familiarity with bat roost biology (i.e., a professional biologist with a minimum of two years of bat survey experience, inclusive of acoustic survey experience).
- If an active roost site is located during the pre-construction survey, the roost shall be avoided and Project construction activities shall be conducted as recommended by the biologist to avoid the area, which may include temporary postponement of activities or provision of a suitable buffer around the roost until roosting activities cease.
- A report shall be submitted to the City with the results of the pre-construction or tree removal survey and any needed maternity roost avoidance actions prior

²⁵ Hage, S. R. and W. Metzner. 2013. Potential effects of anthropogenic noise on echolocation behavior in horseshoe bats. *Communicative & Integrative Biology* 6(4): e24753-1-e24753-3.

- to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats. If special-status bats are detected during the survey, a qualified bat specialist shall prepare species specific mitigation measures to reduce or avoid impacts to each special-status species detected. Mitigation may include avoidance through postponing or temporarily halting construction until maternal roost use is completed, use of construction buffers of no less than 100-feet, or the installation of bat boxes in proximity to detected maternal roosts. Avoidance measures shall be based on site-specific factors to prevent roost disturbances; including but not limited to numbers and locations of bats, proposed construction activities, height and distance of bat roosts from proposed construction activities, the presence of visual and/or acoustic barriers between the roost and proposed activities, and the pre-existing level of human activities (e.g., ambient noise, potential movement, etc.) to which the bats may already tolerate.
- If special-status bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in palms at a given location, removal activities will be initiated by pushing palms using heavy machinery prior to using a chainsaw to remove the tree. In order to provide the optimum warning to any roosting special-status bats that may be present, palms shall be pushed lightly two or three times, with an approximately 30-second pause between each nudge/push to allow bats to become active. A period of at least 24 hours shall elapse between such operations to allow special-status bats to escape the construction area.

(3) Level of Significance After Mitigation

As no candidate, sensitive, or special-status plants occur on the Project Site, no impacts would occur. Therefore, no mitigation measures were required or included, as no impact would occur.

By avoiding maternity roosting season, or by conducting pre-construction surveys during maternity roosting season and avoiding direct impacts to active roosts, potentially significant impacts on special-status wildlife species would be reduced to a less-than-significant level with implementation of Mitigation Measure BIO-MM-1.

Threshold b) Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

As discussed in Subsection VI.6, *Impacts Found not to be Significant*, and in the Initial Study (**Appendix A**) of this Draft EIR, there are no riparian or sensitive natural communities on the Project Site. **Therefore, the Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or**

USFWS, and no impact would occur with respect to Threshold (b). As such, no further analysis is required.

Threshold c) Would the Project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

As discussed in Subsection VI.6, *Impacts Found not to be Significant*, and in the Initial Study (Appendix A) of this Draft EIR, there are no State or federally protected wetlands on the Project Site. **Therefore, the Project would not have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means, and no impact would occur with respect to Threshold (c). As such, no further analysis is required.**

Threshold d) Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

(1) Impact Analysis

(a) *Wildlife Movement and Corridors*

Although construction of the Project would result in disturbances to local wildlife movement within the Project Site with the removal of landscape trees and palms that may be used by birds and bats, these disturbances would be temporary in nature and surrounding landscaping and vegetation would be utilized by these species. In addition, Project operations would be similar in nature to existing conditions and those species are adapted to urban areas and would be expected to persist on-site following construction with the proposed landscaping. No fish habitat exists on the Project Site. **Therefore, Project impacts on the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors would be less than significant.**

(b) *Native Wildlife Nursery Sites*

The Project Site supports wildlife nursery sites in the form of nesting, roosting and foraging habitat for numerous common nesting bird species and special-status bat species. Since such habitat is comprised primarily of ornamental trees and palms, the quality of nesting and foraging habitat for many migratory birds, especially raptors, is considered to be low. Higher-quality nesting and foraging habitat is considered to occur in less developed areas, typically with larger expanses of open space.

(i) *Special Status Bat Species*

With regard to the special-status bat species, the bats could potentially use the palms on-site as a nursery site for temporary roosting. Phased removal of palms would not be needed because the urban ornamental landscaped areas in surrounding locations include palms that would provide alternative locations for bats to roost. While the surrounding area contains other similar palms that might be used for roosting during construction, palm removal within the Project Site would impede the use of the Project Site as a nursery site for roosting bats and would be considered a potentially significant direct impact. Implementation of Mitigation Measure BIO-MM-1 would reduce potentially significant direct impacts on roosting and foraging bat species from temporary loss of nursery sites to a less than significant level.

Indirect impacts to bats during construction and palm removal may result in behavioral changes and could cause unsuccessful breeding opportunities. However, the construction activities would be temporary on an intermittent basis, and indirect lighting and noise impacts would not diminish long-term survival of a special-status bat species and, therefore, would not be significant. **Therefore, with implementation of Mitigation Measure BIO-MM-1, direct impacts to wildlife nursery sites, including bats sites, would be reduced to a less than significant level.**

During operations, portions of the Project Site would have an increase in lighting due to Hotel Expansion Building, Meeting Room Addition, and new lighting associated with landscaping and circulation, as compared to existing conditions. Additional lighting, has the potential to attract more insects on which bat species forage, which could be a benefit. Exterior lighting would be similar to existing conditions with low-level lighting for security and wayfinding purposes or lighting to accent signage and landscaping elements. If present on-site, the roosting bat species would already be adapted to living in an urbanized setting with the existing lighting on-site, as well as from the adjacent Sheraton Hotel and traffic along roads. The incremental addition of noise would be similar to existing conditions, and outdoor event noise, also similar to under existing conditions, would be limited to specific hours, as well as limited in duration. As noted above, the change in the on-site operational noise levels and associated human activities would be low and would not diminish wildlife use by roosting bat species that are already adapted to living in an urbanized setting. **Thus, indirect impacts from lighting, noise, and human activity during Project operation would not diminish long-term survival of roosting bat species and, therefore, impacts would be less than significant.**

(ii) *Native Birds*

Construction activities and tree and vegetation removal would also result in potentially significant direct impacts to nesting birds, such as raptors and songbirds. Phased removal of trees and palms would not be needed because the urban ornamental landscaped areas in surrounding locations would provide alternative locations for nesting birds to nest. Though common bird species are not special-status, their active nests are protected under the federal MBTA. In addition, nests and eggs are protected under CFGC Section

3503. Avian nesting activity typically occurs from March 1 through September 15 for songbirds and January 15 to August 31 for raptors. Disturbing or destroying active nests is a violation of the MBTA (16 U.S.C. 703 et seq.). Project implementation would result in significant direct impacts to nesting birds if constructed during the nesting bird season. Indirect impacts to nesting birds during construction from increased noise or light may result in wildlife behavioral changes causing unsuccessful breeding or nest abandonment. **With compliance with the regulations of the MBTA and CFGC, including nest avoidance during breeding season with pre-construction nest surveys and the use of suitable nest buffers (initially, 100 feet in urban areas) when active nests are present, direct impacts to breeding birds (e.g. through nest removal) and indirect impacts (e.g. by noise resulting in abandonment of the nest) to both songbirds and raptors would be less than significant.**

Similar to roosting bat species, exterior lighting would be similar to existing conditions and if present on-site, bird species would already be adapted to living in an urbanized setting with the existing lighting on-site and surrounding land uses. The change in the on-site operational noise levels and associated human activities would be low and would not diminish wildlife use by nesting bird species that are already adapted to living in an urbanized setting. **Thus, indirect impacts from lighting, noise, and human activity during Project operation would not diminish long-term survival of nesting bird species and, therefore, impacts would be less than significant.**

(2) Mitigation Measures

Mitigation measure BIO-MM-1 would be required to reduce potentially significant impacts on native wildlife nursery sites (roosting bat species). Refer to the prior discussion of Mitigation Measure BIO-MM-1. No additional mitigation measures are required.

(3) Level of Significance After Mitigation

Project impacts regarding wildlife corridors, as well as indirect impacts on special status wildlife species, would be less than significant without mitigation. Therefore, no mitigation measures were required or included, and the impact level for these impacts remain less than significant.

Potentially significant direct impacts on nursery sites that may affect roosting special status bat species during breeding season would be reduced to a less than significant level with implementation of Mitigation Measure BIO-MM-1.

Threshold e) Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

As discussed in the Tree Report (Appendix C) of this Draft EIR, construction would result in the removal of 88 trees and 95 palms on the Project Site. Because palms are part of the grass family and are not trees, palms are distinguished from trees and palms are not subject to the tree removal and replacement requirements of the City's Tree Ordinance.

Of the 88 trees to be removed, 84 are considered “significant” but none of the trees that would be removed are considered “protected” by the City of Los Angeles Tree Preservation Ordinance No. 177.404. Significant trees are any tree species with a trunk diameter of eight inches or greater while protected trees and shrubs include the species coast live oak, western Sycamore, Southern California black walnut, California bay laurel, Mexican elderberry, and toyon with trunk diameters of four inches or greater (measured at 4.5 feet above grade). No off-site trees would be impacted by construction activities due to the placement of construction fencing along the Project Site boundary. In addition, chain link construction fencing would also be installed during construction around all trees identified for preservation. Further, Project landscaping would comply with all tree replacement requirements pursuant to the Department of City Planning and/or the City’s Urban Forestry Division. Typically, the replacement ratio is 1:1 for significant trees (trees with a trunk diameter of 8 inches or greater and not listed in the Tree Preservation Ordinance) with minimum 24-inch box specimen size. As described in Chapter II, *Project Description*, plant materials would be a combination of native plants and plants adapted to the Southern California climate that have low to medium water demand. Specifications on the exact types of trees and sizes for the replacement trees would be provided by the landscape architect during plan check, and, through compliance with the City’s ordinance, impacts to “significant” trees would be less than significant. **Therefore, the Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, and impacts would be less than significant with respect to Threshold (e).**

Threshold f) Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

As discussed in Subsection VI.6, *Impacts Found not to be Significant*, and in the Initial Study (Appendix A) of this Draft EIR, the Project Site is not located within a habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. **Therefore, the Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan, and no impact would occur with respect to Threshold (f). As such, no further analysis is required.**

e) Cumulative Impacts

(1) Impact Analysis

The City has identified 15 related projects located in the Project area that are currently proposed, have not yet been built, or that are currently under construction (See Chapter III, *General Description of Environmental Setting*, subsection III.2, Related Projects, of this Draft EIR for additional details). The cumulative study area included a 1.15-mile radius around the Project Site, which includes urbanized areas of the City of Los Angeles

and the County of Los Angeles. As shown in Figure III-1, *Related Projects Map*, in Chapter III of this Draft EIR, while there are areas of open space within the cumulative study area, the related projects are all within urbanized areas with existing development. One development project is situated within 1,000 feet of the Project Site: NBC Universal Evolution Plan (Related Project No.1). Related Project No. 1 consists of a plan for the future development of the Universal City area. The southwestern portion of Related Project No. 1 is within 500 feet of both the Project Site and the Sheraton Hotel property. The portion of Related Project No. 1 located north of the Sheraton Hotel property and north of Universal Hollywood Drive is designated as Business District. A 1-acre landscaped slope adjacent to both the Sheraton Hotel property and the Project Site, the area adjacent to Project Site to the east, and the property to the east of Universal Hollywood Drive are designated for hotel uses.²⁶ As stated above, the purpose of Related Project No. 1 is to guide future development of the Universal City area. There are no near-term plans for development proposed within 500 feet of the Project Site and the Sheraton Hotel because areas adjacent to the Project Site are designated for hotel and Business District-related uses.

There are no federal wetlands, riparian habitat, special status plant species located on the Project Site; therefore, no cumulative impacts to such biological resources would occur. In addition, as with the Project Site, there are no habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan applicable to the related project sites; therefore, no cumulative impacts would occur.

The Project Site is located within a highly urbanized setting, with surrounding residential development, roads and highways, and transportation infrastructure. Biological resources within the Project Site include four special-status wildlife species and potentially nesting birds. Because of the urban and developed nature of the related project sites, these projects also have limited potential for biological resources, aside from nesting birds and roosting bats adapted to urbanized environments that utilize urban landscaping for nesting and roosting. Implementation of Mitigation Measure BIO-MM-1 would reduce the Project's potentially significant impacts to special-status wildlife (bat) species and to native wildlife (bat) nursery sites/roosts to a less-than-significant level. The related projects, subject to CEQA, would likely include similar mitigation measures for construction activities if roosting bat habitat is identified on site. Related projects would also be required to comply with applicable regulatory requirements, such as the MBTA for protection of nesting birds during construction activities. The 14 related projects within the City would also be subject to the City's Tree Ordinance. Related projects would be required to comply with applicable regulatory requirements for protection of nesting birds and tree removal and to implement mitigation measures similar to MM-BIO-1 to

²⁶ County of Los Angeles. Universal Studios Specific Plan. Ordinance No. 2013-0010. April 2013. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://planning.lacounty.gov/wp-content/uploads/2022/10/Universal-Studios_specific-plan-approved-final_Ordinance.pdf. Accessed July 5, 2023.

addresses significant impacts under CEQA regarding special-status bat species and roosting sites. Operation of the related projects would include a mix of residential, commercial, retail, restaurant, and office uses consistent with the existing urban environment. Potential operational noise and lighting impacts would be generally consistent with the surrounding environment and special-status species would already be adapted to living in an urbanized setting with the existing lighting on-site and surrounding land uses. Furthermore, each project would be subject to CEQA analysis to identify any project-specific mitigation for biological resources. **Therefore, the Project's contribution to cumulative impacts would not be cumulatively considerable. As such, cumulative impacts on biological resources would be less than significant.**

(2) Mitigation Measures

Cumulative impacts to biological resources were determined to be less than significant with the Mitigation Measure BIO-MM-1 for special-status bat species. No additional mitigation measures beyond those identified for the reduction of impacts related to special status bat species are required.

(3) Level of Significance After Mitigation

Cumulative impacts related to biological resources would be less than significant without additional mitigation measures beyond those identified for special status bat species for the Project.