



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 26, 2024

Albert Enault, Senior Planner
City of Vacaville
650 Merchant Lane
Vacaville, CA 95688
Albert.Enault@cityofvacaville.com

Subject: Centennial Park Master Plan Project, Mitigated Negative Declaration,
SCH No. 2024081340, Solano County

Dear Mr. Enault:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Vacaville (City) for the Centennial Park Master Plan Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Vacaville

Objective: Expand the existing Centennial Park to encompass approximately 276 acres. Additional amenities to be developed would include a dog park, bike skills course, construction of various maintenance buildings and restrooms, 18-hole disc golf course, multi-purpose recreation center and outdoor seating area, tennis courts, soccer complex expansion, water play area, skate park, remote control car track, basketball courts, event pavilion, pollinator garden, nature playscape area, sand volleyball courts,

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

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trails, group picnic areas, and landscaping. The Centennial Park Master Plan project is anticipated to be developed in five phases as funding becomes available. The Project would also include the expansion of parking from approximately 380 existing parking spaces to over 1,000 parking spaces (plus designated overflow parking areas for special events) and would extend the Allison Parkway access point in the northern portion of the Project site. The site currently consists of annual grassland and wetland complexes with four drainages that convey water from the west to the east and ultimately flow to the Sacramento River.

Location: County of Solano, 501 Browns Valley Parkway, Vacaville, CA 95688; approximate centroid of 38.373142°N, 121.973542°W.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA either during construction or over the life of the Project. **The Project has the potential to impact Swainson’s hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*), which are both CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. **As**

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described in the MND (pages 19-23 & pages 85-86), the Project would likely impact streams and hydrologically connected wetlands, therefore an LSA Notification would likely be required. Thank you for including a mitigation measure requiring the Project to obtain a permit (i.e., LSA agreement) from CDFW for the above-described impacts. CDFW would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

COMMENTS AND RECOMMENDATIONS

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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and in **Attachment 1 Draft Mitigation and Monitoring Reporting Plan**, CDFW concludes that an MND is appropriate for the Project.

I. Environmental Setting and Mitigation Measure Related Impact Shortcomings

MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

COMMENT 1: Swainson's Hawk, MND pages 73 through 75

Issue: The MND does not adequately evaluate and mitigate potential impacts to Swainson's hawk.

Specific impacts, why they may occur and be potentially significant:

Within section "Solano County HCP Avoidance and Minimization Measures" in the MND, the survey description indicates that surveys may only occur during one survey period, whereas the protocol survey methodology requires surveys during at least two specific survey periods. Additionally, the minimization measure requires a

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0.25-mile buffer around any active Swainson's hawk nest, however the species may be disturbed within 0.5 miles.

Additionally, there are no measures for potential foraging habitat loss. The Project site is within the Draft Solano Multispecies Habitat Conservation Plan (HCP) Valley Floor Grassland Conservation Area, which should be mitigated at a minimum 1:1 ratio according to the Draft Solano HCP Mitigation Measure SH 2 for Swainson's hawk (see Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>). In 2016, CDFW released a Status Review for Swainson's hawk in California and recommended the species retain its status as threatened under the CESA (CDFW 2016). The review cites the primary threat to Swainson's hawk continues to be habitat loss, especially the loss of suitable foraging habitat. The study cites concerns regarding impacts to Swainson's hawk from urban development, reduction in grasslands, and orchard and vineyard cultivation, all of which are prominent impacts in Solano County, where the Project is proposed.

The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels within 0.5 miles of Project activities. Disturbances from Project activities may result in Swainson's hawk nest abandonment and loss of eggs or reduced health and vigor and loss of young. Swainson's hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active Swainson's hawk nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measures: To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA, CDFW recommends including the below measures into the Mitigation Measures.

Mitigation Measure BIO-1 (Swainson's Hawk Surveys and Avoidance Buffer): If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less

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transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.

Consistent with the Draft Solano HCP, prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

COMMENT 2: Tricolored blackbird, MND pages 72 and 73

Issue: The MND does not adequately evaluate and mitigate potential impacts to tricolored blackbird.

Specific impacts, why they may occur and be potentially significant: Within section "Solano County HCP Avoidance and Minimization Measures" in the MND, the survey description states that an avoidance buffer of 250 feet would be implemented for any detected tricolored blackbird nests. The survey area and buffer should be increased to a minimum of 500 feet, to reduce impacts to less-than-significant and comply with CESA.

The Project has the potential to impact nesting tricolored blackbird through auditory or visual disturbances above ambient levels. Project activities that occur between February 15 and August 31 could disturb nesting tricolored blackbirds leading to reduced nest and colony success, nest abandonment, and potential mortality of young. As indicated above, birds may initiate nesting during intensive construction and then abandon the nest when construction intensifies.

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The statewide tricolored blackbird population has declined between 75 percent and 90 percent over the last 25 years and remains at or near its smallest recorded size (CDFW 2018). Tricolored blackbird is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active tricolored blackbird nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measures: To reduce potential impacts to tricolored blackbirds to less-than-significant and comply with CESA, CDFW recommends including the below measures into the Mitigation Measures.

Mitigation Measure BIO-2 (Tricolored Blackbird Surveys and Avoidance Buffer): If Project construction activities, including, but not limited to, vegetation clearing, occur during the nesting season for birds protected under the California Fish and Game Code and federal MBTA (approximately February 15-August 31) the Project shall retain a qualified biologist to perform preconstruction surveys for nesting birds on the Project site (including offsite improvement corridors) and in the immediate vicinity including a minimum 500 foot radius around the Project site. The survey shall be conducted no more than seven days prior to the initiation of construction activities, including, but not limited to, vegetation clearing. If there is a lapse of seven days or more in construction activities, another nesting bird survey shall be conducted. In the event that nesting birds are found on the Project site or within 500 feet of the Project site, the Project shall:

- Locate and map the location of the nest site and immediately notify CDFW if nesting tricolored blackbird or evidence of their presence is found;
- Establish a clearly marked no-disturbance buffer around the nest site. Buffer distances for bird nests shall be site specific and an appropriate distance, as determined by a qualified biologist, *and not less than 500 feet for tricolored blackbird nests* unless otherwise approved in writing by CDFW. The buffer distances shall be specified to protect the bird's normal behavior thereby preventing nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established. Species-specific no-disturbance buffers for

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Swainson's hawk and burrowing owl described in MM-BIO-1 and BIO-3 in this letter shall be implemented, unless otherwise approved in writing by CDFW;

- Within two working days of the nesting bird surveys prepare a survey report and submit it to the City and CDFW; and
- Monitor any active nest daily and ensure that the no disturbance buffer is maintained, unless otherwise approved in writing by CDFW.

If impacts to nesting tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.

Construction may resume when a qualified biologist has confirmed that the birds have fledged and are no longer dependent on parental care around the nest site.

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 CDFW or the U.S. Fish and Wildlife Service?

COMMENT 3: Burrowing owl (*Athene cunicularia*), Pages 75 through 76

Issue: The MND does not adequately evaluate potential impacts to burrowing owl.

Specific impacts, why they may occur and be potentially significant: The Project may impact nesting or wintering burrowing owl utilizing burrows or burrow surrogates on or within up to 500 meters (1,640 feet) of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a California Species of Special Concern because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrel resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owl have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022). Based on the foregoing, if burrowing owl are wintering or nesting on or within

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500 meters of the Project site, Project impacts to burrowing owl would be potentially significant.

Recommended Mitigation Measures: To reduce potential impacts to burrowing owl to less-than-significant and comply with Fish and Game Code section 3503.5, CDFW recommends including the below mitigation measures.

Mitigation Measure BIO-3 (Burrowing Owl Surveys): A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) and prepare a report documenting the survey results. Surveys for nesting burrowing owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrows owls shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owls shall be fully avoided.

Mitigation Measure BIO-4 (Burrowing Owl Burrow Mitigation): If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted

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owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved.

The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.

Mitigation Measure BIO-5 (Cap Pipe and Hose): To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

EDITORIAL COMMENT

Starting on page 65 of the MND, there is reference to The Solano County HCP Avoidance and Minimization Measures for specific species. However, these should be listed in the Mitigation Measures as per CEQA guidelines section 15370.

- The Solano County HCP document is still in Draft form and has not been approved. Any reference to the HCP should be referred to as the Draft Solano Multispecies Habitat Conservation Plan.

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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

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<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. (See Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist at Jordan.Beaton@wildlife.ca.gov or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:

B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024081340)

REFERENCES

CDFW. 2023. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed 16 September 2024].

CDFW. 2018. Report to the Fish and Game Commission: A Status Review of the Tricolored Blackbird (*Agelaius tricolor*) in California. State of California Natural

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Resources Agency, Sacramento, CA.

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CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report. State of California Natural Resources Agency, Sacramento, CA.

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Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Solano County Water Agency. 2014. Draft Solano Multispecies Habitat Conservation Plan. <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
BIO-1	<p><i>Swainson's Hawk Surveys and Avoidance Buffer:</i> If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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	<p>ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson’s hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.</p> <p>Consistent with the Draft Solano HCP, prior to Project construction, the Project shall provide Swainson’s hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species’ foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson’s hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.</p>		
<p>BIO-2</p>	<p><i>Tricolored Blackbird Surveys and Avoidance Buffer :</i> If Project construction activities, including, but not limited to, vegetation clearing, occur during the nesting season for birds protected under the California Fish and Game Code and federal MBTA (approximately February 15-August 31) the Project shall retain a qualified biologist to perform preconstruction surveys for nesting birds on the Project site (including offsite improvement corridors) and in the immediate vicinity including a minimum 500 foot radius around the Project site. The survey shall be conducted no more than seven days prior to the initiation of construction activities, including, but not limited to, vegetation clearing. If there is a lapse of seven days or more in construction activities, another nesting bird survey shall be conducted. In the event that nesting birds are found on the Project site or within 500 feet of the Project site, the Project shall:</p> <ul style="list-style-type: none"> • Locate and map the location of the nest site and immediately notify CDFW if nesting tricolored blackbird or evidence of their presence is found; • Establish a clearly marked no-disturbance buffer around the nest site. Buffer distances for bird nests shall be site specific and an appropriate distance, as determined by a qualified biologist, <i>and not less than 500 feet for tricolored</i> 	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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	<p><i>blackbird nests</i> unless otherwise approved in writing by CDFW. The buffer distances shall be specified to protect the bird's normal behavior thereby preventing nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established. Species-specific no-disturbance buffers for Swainson's hawk and burrowing owl described in MM-BIO-1 and BIO-3 in this letter shall be implemented, unless otherwise approved in writing by CDFW;</p> <ul style="list-style-type: none"> • Within two working days of the nesting bird surveys prepare a survey report and submit it to the City and CDFW; and • Monitor any active nest daily and ensure that the no disturbance buffer is maintained, unless otherwise approved in writing by CDFW. <p>If impacts to nesting tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.</p> <p>Construction may resume when a qualified biologist has confirmed that the birds have fledged and are no longer dependent on parental care around the nest site</p>		
<p>BIO-3</p>	<p><i>Burrowing Owl Surveys:</i> A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)</p>	<p>Prior to Ground Disturbance and for</p>	<p>Project Applicant</p>

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	<p>methodology (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) and prepare a report documenting the survey results. Surveys for nesting burrowing owls shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrows owls shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owls shall be fully avoided.</p>	<p>Duration of Construction</p>	
<p>BIO-4</p>	<p><i>Burrowing Owl Burrow Mitigation.</i> If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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	<p>Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved.</p> <p>The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.</p> <p>Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.</p>		
<p>BIO-5</p>	<p><i>Cap Pipe and Hose.</i> To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than 2 inches in diameter stored at the Project site shall be capped or covered before the end of each workday and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.</p>	<p>For Duration of Construction</p>	<p>Project Applicant</p>