4.3 BIOLOGICAL RESOURCES

4.3.1 INTRODUCTION

The Biological Resources section of the EIR includes the results of a site-specific biological resources assessment, the purpose of which is to determine whether the Lincoln40 Project (proposed project) site contains sensitive natural habitats and/or other habitats suitable to support special-status plant and wildlife species. Such determinations are based upon known occurrences of special-status species within the site (as obtained from regulatory agency databases), and two field reconnaissance surveys of the project site. The information contained in this analysis is based on the Biological Resources Evaluation prepared by Miriam Green Associates (see Appendix G),[1] an *Arborist Report* prepared by Tree Associates,[2] as well as information from the *Davis General Plan*.[3]

4.3.2 EXISTING ENVIRONMENTAL SETTING

The following sections describe the existing environmental setting and biological resources occurring, or potentially occurring, in the proposed project area.

Regional Setting

The 5.92-acre proposed project site is located within the city limits of the City of Davis, approximately 0.2-mile east of downtown Davis. The City is located approximately 12.25 miles west of the Sacramento metro area, approximately 9.25 miles south of the City of Woodland, and approximately 53 miles northeast of the San Francisco Bay Area. The City of Davis is surrounded by agricultural lands. The proposed project site is located in the central section of the City of Davis, on the northern side of Interstate 80 (I-80) and south of the Union Pacific Railroad (UPRR) tracks. The infill project site is surrounded by urban development on all sides, which consist of medium density residential apartments, commercial developments, Slatter's Court mobile home park, the Old East Davis neighborhood, PG&E's Davis substation, and the aforementioned UPRR tracks.

Project Setting

The proposed project site consists of approximately 5.92 acres of relatively flat land. Hickory Lane bisects the western portion of the site. A total of 24 residential units are currently present on the site, including ten single-family homes and a lodging facility that was previously converted into a

[1] Miriam Green Associates. *Biological Resources of the Lincoln40 Project Site, City of Davis, California.* December 8, 2016.
[2] Tree Associates. *Arborist Report, Lincoln40 Project, Olive Drive, Davis, California*. February 4, 2017.
[3] City of Davis. *Davis General Plan.* Adopted May 2001. Amended through January 2007.

14-unit apartment complex. Portions of the project site not containing structures are mostly dominated by weedy, ruderal vegetation and various trees.

The project site consists of an urban biological community. Natural habitats such as riparian forests/woodlands, seasonal wetlands, or swales are not present on the project site. The project site supports a small ruderal field, approximately two acres in size, situated between the UPRR tracks, Hickory Lane, and the existing residential structures. Existing herbaceous vegetation throughout the site consists of non-native grasses and forbs, such as wild oat (*Avena* sp.), filaree (*Erodium* sp.), and bindweed (*Convolvulus arvensis*). The proposed project site contains 180 trees, of which three species are native to the Davis area: Valley oak (*Quercus lobata*) (41 trees), Northern California black walnut (*Juglans hindsii*) (15 trees), and box elder (*Acer negundo*) (1 tree).

Special-Status Species

For this analysis, special-status species are considered any of the following:

- Listed or proposed for listing as threatened or endangered under federal Endangered Species Act (ESA) or candidates for possible future listing (USFWS 2015);
- Listed or candidates for listing by the State of California as threatened or endangered under the California Endangered Species Act (CESA);
- Listed as Fully Protected under the California Fish and Game Code;
- Animals identified by CDFW as species of special concern;
- Plants considered by CDFW to be "rare, threatened, or endangered in California" and assigned a California Rare Plant Rank (CRPR). The CDFW system includes five rarity and endangerment ranks for categorizing plant species of concern, which are summarized as follows:
    - CRPR 1A Plants presumed to be extinct in California;
    - CRPR 1B Plants that are rare, threatened, or endangered in California and elsewhere;
    - CRPR 2 Plants that are rare, threatened, or endangered in California but more common elsewhere;
    - CRPR 3 Plants about which more information is needed (a review list); and
    - CRPR 4 Plants of limited distribution (a watch list);
- Otherwise meets the definition of rare or endangered under CEQA Sections 15380(b) and (d).

<u>Special-Status Plants</u>

Based on queries of the California Department of Fish and Wildlife's Natural Diversity Database (CNDDB) and other information sources, the Biological Resources Evaluation returned records of eight special-status plant species that occur within five miles of the proposed project site. Table 4.3-1 below lists the special-status species that are known to occur or have the potential to occur within five miles of the project site based on their local and regional distribution. The table provides information for each species, including common and scientific name, federal, State, and California Native Plant Society (CNPS) status, habitat suitability of the site, and field observations from reconnaissance-level surveys conducted on September 29, 2015 and October 7, 2016.

Table 4.3-1
Special-Status Plant Species with Potential to Occur within the Study Area

Common Name (*Scientific Name*)	Status Federal/State/CNPS	Habitat and Bloom Time	Potential to Occur On-Site
Ferris' milk-vetch *Astragalus tener* var. *ferrisiae*	-- / -- / 1B.1	Meadows and seeps (vernally mesic); Valley and foothill grassland (subalkaline flats). Blooms April – May.	Low. Suitable habitat not present on project site.
Alkali milk-vetch *Astragalus tener* var. *tener*	-- / -- / 1B.2	Valley and foothill grassland (adobe clay); vernal pools. Blooms March – June.	Low. Suitable habitat not present on project site.
Heartscale *Atriplex cordulata* var. *cordulata*	-- / -- / 1B.2	Saline or alkaline habitat (chenopod scrub, meadows and seeps, Valley and foothill grassland [sandy]). Blooms April – October.	Low. Suitable habitat not present on project site.
Brittlescale *Atriplex depressa*	-- / -- / 1B.2	Alkaline or clay habitats (chenopod scrub, meadows and seeps, playas, Valley and foothill grassland, vernal pools). Blooms April – October.	Low. Suitable habitat not present on project site.
San Joaquin spearscale *Extriplex* (*Atriplex*) *joaquiniana*	-- / -- / 1B.2	Alkaline habitats (chenopod scrub, meadows and seeps, playas, Valley and foothill grassland. Blooms April – October.	Low. Suitable habitat not present on project site.
Northern California black walnut *Juglans hindsii*	-- / -- / 1B.1	Riparian woodlands and forests in northern California	High. Tree Survey indicated 15 trees on-site.
Heckard's pepper-grass *Lepidium latipes* var. *heckardii*	-- / -- / 1B.2	Alkaline flats in Valley and foothill grassland. Blooms March – May.	Low. Suitable habitat not present on project site.
California alkali grass *Puccinellia simplex*	-- / -- / 1B.2	Alkaline, vernally mesic; sinks, flats, and lake margins in chenopod scrub, meadows and seeps, Valley and foothill grassland, vernal pools. Blooms March – May.	Low. Suitable habitat not present on project site.

Notes:
Codes used in table are: **E** = Endangered; **T** = Threatened; **R** = Rare; **1B.1** = Plants seriously endangered in California; **1B.2** = Plants fairly endangered in California.

Source: Miriam Green Associates. Biological Resources of the Lincoln40 Project Site, City of Davis, California. December 8, 2016.

With the exception of the Northern California black walnut, none of the eight species have been reported from the project site, and suitable habitat for the species is not present within the site. Although protocol-level botanical surveys for special-status plant species were not conducted on the project site, the lack of required habitat (i.e., vernal pools, wetlands, riverine, etc.), soils (i.e., alkaline, serpentinite, etc.), and the urban nature of the project site preclude the likely presence of most of the species. Therefore, seven of the eight species were eliminated from further evaluation because suitable habitat is not present on-site.

Northern California black walnut (*Juglans hindsii*) is the only special-status plant species identified on-site. Black walnut is included on the California Rare Plant Rank 1B.1 list (the .1 means that the species is seriously endangered in California). The Northern California black walnut is a deciduous tree typically found in riparian forest and riparian woodland habitats. Black walnut is widely naturalized in northern California. The species is threatened by hybridization with orchard trees, urbanization, and conversion of riparian habitat to agriculture. Black walnuts were formerly cultivated as rootstocks for English walnut, with which the species hybridizes readily, because they grew vigorously and were more tolerant of saline and saturated soils, and had more resistance to soil-borne pests than English walnut seedlings. The arborist report identified 15 Northern California black walnuts on the proposed project site.

Special-Status Wildlife

Based on queries of the CNDDB and other information sources, the Biological Resources Evaluation identified 21 special-status wildlife species that have been documented or have potential to occur within a five-mile radius of the project site. Of the 21 wildlife species, 13 are considered unlikely to occur on the project site, because they are restricted to particular habitat types (e.g., vernal pools, seasonal wetlands, streams, creeks, sloughs, and/or rivers) that are not present on or adjacent to the project site.

Table 4.3-2 lists the special-status species that are known to occur or have the potential to occur within five miles of the project site based on their local and regional distribution. The table provides information for each species, including common and scientific name, federal, State, and local status, habitat suitability of the site, and field observations from reconnaissance-level surveys conducted on September 29, 2015 and October 7, 2016. None of the 21 special-status species identified were observed during site surveys.

The species that have the potential to occur on-site, as presented in the Table 4.3-2, are discussed in further detail below.

White-tailed kite

White-tailed kite (*Elanus leucurus*) is a CDFW fully protected species. The species is typically found in the foothills and valleys in California with scattered oaks and river bottomlands or marshes near deciduous forests or woodlands. Kites require open grasslands, meadows, marshes, or agricultural fields for foraging. Kites typically nest in dense-topped trees along rivers and streams or near wetlands. In addition, the species nests in suburban areas and farmyards.

Table 4.3-2
Special-Status Wildlife with Potential to Occur within the Study Area

Common Name (*Scientific Name*)	Status Federal/State/LC	Habitat	Potential to Occur On-Site
REPTILES			
Giant garter snake (*Thamnophis gigas*)	T / T / --	Sloughs, rice fields, irrigation ditches, slow moving waterways.	Unlikely to occur on project site. Suitable aquatic habitat not present.
Western pond turtle (*Actinemys marmorata*)	-- / CSC / --	Rivers, sloughs, ponds, water conveyance canals and adjacent uplands.	Unlikely to occur on project site. Suitable aquatic habitat not present. UC Davis Arboretum is nearest occurrence.
INVERTEBRATES			
Conservancy fairy shrimp (*Branchinecta conservatio*)	E / -- / --	Vernal pools and other seasonal wetlands.	Unlikely to occur. Suitable habitat not present on project site.
Vernal pool fairy shrimp (*Branchinecta lynchi*)	T / -- / --	Vernal pools and other seasonal wetlands.	Unlikely to occur. Suitable habitat not present on project site.
Vernal pool tadpole shrimp (*Lepidurus packardi*)	E / -- / --	Vernal pools and other seasonal wetlands.	Unlikely to occur. Suitable habitat not present on project site.
California linderiella (*Linderiella occidentalis*)	-- / -- / --	Vernal pools and other seasonal wetlands.	Unlikely to occur. Suitable habitat not present on project site.
Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)	T / -- / --	Riparian forests and oak woodlands. Requires blue elderberry shrubs (*Sambucus nigra*) as its host plant.	Unlikely to occur. Suitable habitat (elderberry shrubs) not present on project site.
Sacramento tiger beetle (*Cincidela hirticolis abrupta*)	-- / -- / --	Sandy, open soils and point bars; unvegetated habitats, such as occurred historically along Sacramento River prior to flood control practices.	Unlikely to occur. Suitable habitat not present on project site. Possibly occurred historically along the banks of Putah Creek in the 1930s. Believed extirpated from known habitats.
Antioch multilid wasp (*Myrmosula pacifica*)	-- / -- / --	Dunes; occurred historically along upper Putah Creek and lower Sacramento River.	Unlikely to occur. Suitable habitat not present on project site. Occurrence in the old center of Davis in the 1950s and 1960s.
Western bumble bee (*Bombus occidentalis*)	-- / -- / --	Typically nests underground in abandoned rodent burrows and other cavities; inhabits open grassy area,	Unlikely to occur. Marginal habitat on project site. Bumble bees not observed during surveys. General vicinity of Davis in the 1950s and 1960s.

(Continued on next page)

Table 4.3-2
Special-Status Wildlife with Potential to Occur within the Study Area

Common Name (*Scientific Name*)	Status Federal/State/LC	Habitat	Potential to Occur On-Site
		urban parks and gardens, chaparral scrub and mountain meadows.	
Crotch bumble bee (*Bombus crotchii*)	-- / -- / --	Inhabits open grassland and scrub; nests often located underground in abandoned rodent nests or above ground in tufts of grass, old bird nests, rock piles, or cavities in dead trees.	Unlikely to occur. Marginal habitat on project site. Bumble bees not observed during surveys. One historical occurrence at UC Davis Arboretum (Putah Creek).
BIRDS			
Western snowy plover (*Charadrius alexandrinus nivosus*)	T / CSC / --	Occurs in coastal beaches, other sandy substrates, alkali wetlands, river mouth beaches, artificial ponds (e.g., wastewater ponds and levees).	Unlikely to occur. Suitable habitat not present on project site.
White-tailed kite (*Elanus leucurus*)	-- / FP / --	Nests in trees or willows in riparian forests, woodlands, urban areas, roadside trees, farmyards. Forages in agricultural fields, pastures, marshes.	Low potential. Suitable nesting trees are present. Marginal foraging habitat. Old nests not observed. Kites not observed.
Swainson's hawk (*Buteo swainsoni*)	-- / T /--	Nests in trees or willows in riparian forests, woodlands, urban areas, roadside trees, farmyards. Forages in agricultural fields, pastures, grasslands.	Moderate potential. Suitable nesting trees are present; however, project site provides insufficient foraging habitat. Stick nests not observed. Nearest known active nest in 2016 was at 4th and I streets. Historic nest site (2007) at Interstate 80 and Richards Blvd.
Burrowing owl *(Athene cunicularia)*	-- / *CSC* /--	Ruderal habitats, large urban fields, rural road edges with ground squirrels and burrows.	Low potential. Ruderal field on project site supports ground squirrels; however, field is probably too small to support owls. Not observed during field surveys.
Tricolored blackbird (*Agelaius tricolor*)	-- / C, CSC / --	Emergent marshes, blackberry thickets for nesting. Agricultural fields, grasslands, and pastures for	Unlikely to occur. Suitable habitat not observed.

(Continued on next page)

Table 4.3-2
Special-Status Wildlife with Potential to Occur within the Study Area

Common Name (*Scientific Name*)	Status Federal/State/LC	Habitat	Potential to Occur On-Site
		feeding. Sensitive to human activity near nests.	
MAMMALS			
Pallid bat (*Antrozous pallidus*)	-- / CSC / --	Shrublands, grasslands, agricultural lands, woodlands, caves, mines, hollow trees, old buildings.	Moderate potential. Potential foraging and roosting habitat.
Silver-haired bat (*Lasionycteris noctivagans*)	-- / -- / --	Coastal and montane forests, feeding over streams and open water; roosts in tree hollows, under lose bark, and unoccupied woodpecker cavities.	Low potential. Potential roosting habitat. Aquatic habitat for foraging not present.
Hoary bat (*Lasiurus cinereus*)	-- / -- / --	Prefers open habitats or habitat patches, with trees for cover and habitat edges for feeding.	Moderate potential. On-site trees provide potential roosting and foraging habitat.
Western red bat (*Lasiurus blossevillii*)	-- / -- / --	Prefers habitat edges and mosaics with trees that are protected from above and open below with open areas for foraging	Moderate potential. Trees provide potential roosting habitat. Potential foraging habitat over site.
American badger (*Taxidea taxus*)	-- / -- / --	Grasslands, oak savannahs, open montane habitats; avoids urban/suburban areas.	Unlikely to occur. Burrows or badgers not observed. Avoids developed areas.

Notes:
Codes used in table are: **E** = Endangered; **T** = Threatened; **C** = Candidate; **CSC =** California Species of Special Concern; and **LC** = Species of Local Concern to the City of Davis.

Source: Miriam Green Associates. Biological Resources of the Lincoln40 Project Site, City of Davis, California. December 8, 2016.

The nearest occurrence of an active white-tailed kite nest is approximately two miles east of the project site, across I-80. Kites also nest in nearby East Davis, North Davis, and on the UC Davis campus. The species was not observed during either of the field surveys and its potential for occurrence is low. Although the project site provides potential nesting habitat (mature trees), foraging opportunities are limited by the small size of the open area, limited prey base, and disturbances due to the urbanized nature.

Swainson's hawk

Swainson's hawk (*Buteo swainsoni*) is listed as threatened in California by CDFW. This species typically nests in tall cottonwoods, valley oaks, or willows associated with riparian corridors, grasslands, irrigated pasture, and cropland with a high density of small rodents. The Central Valley population of Swainson's hawks breeds and nests in the late spring through summer before migrating to Central and South America for the winter. CDFW considers any nest active within the last five years as active. The CNDDB and other sources indicated that at least six nest occurrences lie within one mile of the proposed project site. In addition, the Yolo Habitat Conservancy (HCP/NCCP Joint Powers Agency) provided a map with a documented Swainson's hawk nest approximately 0.3-mile east of the site. The nest occurrence appears to correlate with a CNDDB record of a nest that was last active in 2007 near the I-80 and Richards Boulevard interchange.

The nearest known active Swainson's hawk nest is approximately 1,000 feet from the project site, near the southeast corner of I and 4th streets in Old East Davis, on the opposite side of the UPRR tracks. The nest, active in 2016, was located in a deodar cedar in the backyard of a private residence. The pair of hawks occupying the nest failed to fledge young in 2016. Following the failure, the pair began roosting and bringing twigs to another deodar cedar near the southeast corner of 3rd and J streets, although they did not re-nest at the new location in 2016.

Swainson's hawks are known to nest within the urban portion of the City of Davis; thus, the mature trees on and adjacent to the project site provide suitable nesting habitat for this species. With respect to foraging, the ruderal field located on the proposed property is likely too small to support an adequate prey base. In addition, because private residences and other structures fragment the site, the site is unlikely to provide suitable foraging habitat for Swainson's hawks in the absence of a nest on, or immediately adjacent to, the project site. If such a nest were present, adults might occasionally forage in the field, but it would not serve as their primary food source. The Yolo Habitat Conservancy did not identify the project site as likely Swainson's hawk foraging habitat in their habitat maps of the Davis area.

Burrowing owl

Burrowing owl (*Athene cunicularia*) is a ground nesting raptor species that is afforded protection by the California Fish and Game Code and as a species of special concern because of declining populations in California. Burrowing owls are typically found in open grasslands, large urban vacant lots, golf courses, and agricultural fields. The species nests in abandoned ground squirrel burrows (within active colonies), cavities associated with mounds, levees, or soft berm features.

In addition, the species has been observed along railroad berms. The nearest known occurrence is located approximately one mile east of the project site, in south Davis, across I-80.

The proposed project site provides suitable foraging and nesting habitat for burrowing owls; however, the site is likely too small and fragmented to support the species. The likelihood of burrowing owls to occur on the project site is considered low. However, in the event that all structures are removed and the open area is left undisturbed for an extended period of time prior to buildout of the proposed project, burrowing owl could move in to the site. Burrowing owls were not observed during the field surveys.

Pallid Bat

Pallid bat (*Antrozous pallidus*) is a California species of special concern. The species favors roosting sites in crevices and cavities in trees, cliffs, rock outcrops, caves, abandoned mines, and human-made structures such as bridges, tunnels, barns, attics, and sheds. The pallid bat prefers habitats outside of urban areas. The CNDDB includes a recorded occurrence southwest of the project site from 1964.

The species was not observed during the field surveys; however, the mature trees on the proposed project site may provide suitable roosting sites. Individuals may forage on the site if they occur in the general area.

Silver-haired Bat

Silver-haired bat (*Lasionycteris noctivagans*) is designated as a CDFW special animal. The species is primarily considered a coastal and montane forest species. The silver-haired bat roosts in trees in abandoned woodpecker holes, hollows, under bark, and occasionally in rock crevices. The insectivore's favored foraging sites include open wooded areas near water features. The CNDDB includes a recorded occurrence of the species near the proposed project site from 1957.

The silver-haired bat is most common at mid to high elevations in conifer forest, though the species may occur in foothill woodlands. The species is not expected to occur in the plains of the Central Valley and was not observed during the field surveys.

Hoary Bat

The hoary bat (*Lasiurus cinereus*) is a listed CDFW special animal. Hoary bats often roost in the foliage of older large leaf tree species such as cottonwoods, willows, and fruit or nut trees, but also roost in oak trees, and occasionally in shrub foliage. The hoary bat is considered a forest and woodland species, and in California they are often associated with undisturbed riparian or stream corridors. The CNDDB contains one recorded occurrence attributed to three collections dating back to 1925, 1956 and 1991.

The species was not observed during the field surveys. Although the project site does not support undisturbed riparian corridors, the mature trees on the project site may provide suitable roosting

habitat. If hoary bats are present in the general area surrounding the site, they may forage over the site.

Western Red Bat

The western red bat (*Lasiurus blossevillii*) is a California species of special concern. The species typically roosts in the foliage of cottonwoods, sycamores, willows, and fruit or nut trees. In addition, western red bat may roost in oak trees and, occasionally, in shrubs. Although western red bat is most often associated with riparian habitats, the species has been found roosting in larger urban trees in Davis and Sacramento. Western red bat was not observed during the field surveys. The on-site trees may provide suitable roosting and foraging habitat.

Migratory Birds and Other Species

The project site provides suitable habitat for several species of birds protected under the Federal Migratory Bird Treaty Act. The Federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. The MBTA encompasses whole birds, parts of birds, and bird nests and eggs. In addition, birds of prey are protected in California under provisions of the State Fish and Game Code, Section 3503.5, which prohibits the unlawful take, possession, or destruction of any birds of prey of nests of birds of prey. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by the CDFW. Suitable habitat consists of on-site trees, shrubs and ground cover vegetation.

Two species that are of particular concern to the City of Davis include yellow-billed magpie and western bluebird. Yellow-billed magpie occurs in the Central Valley and foothill valleys in the Sierra Nevada and Coast Ranges. Yellow-billed magpies nest in large stature trees (e.g., oaks, walnuts) in oak woodlands, riparian forests, farmyards, and urban edges. They forage in open oak woodlands, agricultural fields, and urban areas.

Reported occurrences for the species do not exist within the project area, although magpies likely nest along the North and South Forks of Putah Creek. The species was not observed during the field surveys and nests were not found. Although the mature trees on the project site provide suitable nesting habitat for the species, potential for occurrence is considered low.

Western bluebird (*Sialia mexicana*) also occurs in the Central Valley and foothill valleys in the Sierra Nevada and Coast Ranges. Western bluebirds are cavity nesters; they typically nest in old woodpecker holes or cavities in oaks or pines. They inhabit open oak woodlands, riparian forests, and farmyards, and forage in grasslands, meadows, open oak woodlands, open riparian forests, and along agricultural field edges.

Reported occurrences for the species do not exist within the project area, although they likely nest along the South Fork of Putah Creek. In recent years, nesting has been confirmed in the Davis Cemetery and north Davis greenbelt. Western bluebirds were not observed during the 2015 or 2016 field surveys. While the mature trees on the project site may provide potential nesting habitat,

the project site does not constitute their preferred foraging habitat; bluebirds prefer an open overstory in more wooded areas. A low potential exists for western bluebirds to occur on the project site.

Although the western gray squirrel (*Sciurus griseus*) is a harvest species, it is of local concern to the City of Davis. The species occurs in oak woodlands and forests throughout California and typically nests in tree cavities; they rarely occur in urban areas. Western gray squirrels have been recorded in oak woodlands and riparian forests in Yolo and Solano counties and are known to occur along the North and South Forks of Putah Creek.

Development of the project site would result in the loss of trees that could provide nesting opportunities for western gray squirrels; however, such loss would be considered a less-than-significant impact because the continued existence of mature tress both on-site and along Olive Drive would continue to provide suitable, contiguous habitat for the species. In addition, mitigation for the loss of trees as a result of project construction will help to ensure future habitat (see *Mitigation Measures 4.3-7(a)* and *(b)* regarding trees for further detail). As a result, western gray squirrel is not further discussed in this section of the EIR.

Sensitive Natural Communities

Sensitive natural communities are those that are considered rare in the region, support special-status plant or wildlife species, or receive regulatory protection (i.e., wetlands and other waters under Sections 404 and 401 of the Clean Water Act (CWA), Section 1600 *et seq.* of the California Fish and Game Code, and/or the Porter-Cologne Act). In addition, the CNDDB has designated a number of communities as rare; and such communities are given the highest inventory priority.

Special-status natural communities are waters, wetlands, riparian communities, and any natural community or vegetation alliance ranked S1, S2, or S3 by CDFW. Special-status communities may also include those considered locally important or sensitive.

The proposed project site consists of an urban biological community. Per the Biological Resources Evaluation, the site does not contain natural habitats such as riparian forests/woodlands, seasonal wetlands, or swales.

Aquatic Features

According to the Biological Resources Evaluation, potentially jurisdictional waters or wetlands do not exist on the project site. In addition, the online National Wetland Inventory (NWI) map does not identify any wetlands or waters in the project area.[4]

[4] U.S. Fish and Wildlife Service. *National Wetlands Inventory, Wetlands Mapper V2.* Available at: https://www.fws.gov/wetlands/data/Mapper.html. Accessed December 15, 2016.

Trees

According to the arborist report, the proposed project site contains 180 trees, of which three species are native to the Davis area: Valley oak (*Quercus lobata*) (41 trees), Northern California black walnut (*Juglans hindsii*) (15 trees), and box elder (*Acer negundo*) (1 tree) (see Figure 3-8, Tree Exhibit, in Chapter 3, Project Description). Valley oak is the predominant species on the site, representing 23 percent of the total population. Overall, 28 tree species were identified on the site. Seven species comprised 73 percent of all on-site trees. The other species included exotic (non-native) species, such as Modesto ash (*Fraxinus velutina*) (10 trees), cork oak (*Quercus suber*) (15 trees), goldenrain tree (*Koelreuteria paniculata*), olive (*Olea europea*) (14 trees), beefwood (*Casuarina* sp.), London plane (*Platanus* x *acerifolia*), almond (*Prunus dulcis*) (21 trees), myrtle (*Myrtus* sp.), English walnut (*Juglans regia*) (16 trees), purple leaf plum (*Prunus cerasifera*), coast redwood (*Sequoia sempervirens*), fruitless mulberry (*Morus alba*), turkey oak (*Quercus cerris*), persimmon (*Diospyros kaki*), coast live oak (*Quercus agrifolia*), fig (*Ficus carica*), orange (*Citrus sinensis*), deodar cedar (*Cedrus deodara*), common hackberry (*Celtis occidentalis*), Chinese hackberry (*Celtis sinensis*), and Canary Island date palm (*Phoenix canariensis*). Four of the cork oaks were planted in 1915 and are designated by the Urban Forestry Division of the City of Davis as Landmark Trees.

The vast majority of the trees had not been irrigated, pruned or otherwise maintained. The lack of maintenance and severe drought has compromised the health of the trees. Condition ratings of the subject trees ranged from zero percent to 91 percent. Forty-seven trees (26 percent of the total) were given a zero percent rating and 106 trees (59 percent of the total) were given ratings less than 50 percent. In total, 84 percent of the trees were rated 50 percent or less.

Chapter 37 of the City Municipal Code defines “trees of significance” as trees greater than five inches in diameter. The arborist report classified all of the trees referenced in the above discussion as trees of significance.

4.3.3 REGULATORY CONTEXT

A number of federal, State, and local policies provide the regulatory framework that guides the protection of biological resources. The following discussion summarizes the laws that are most relevant to biological resources in the vicinity of the project site.

Federal Regulations

The following are the federal environmental laws and policies relevant to biological resources.

Federal Endangered Species Act

The primary focus of the FESA of 1973 is that all federal agencies must seek to conserve threatened and endangered species through their actions. FESA has been amended several times in the past to correct perceived and real shortcomings. FESA contains three key sections. Section 4 (16 USCA §1533) outlines the procedure for listing endangered plants and wildlife. Section 7 (§1536) imposes limits on the actions of federal agencies that might impact listed species. Section

9 (§1538) prohibits the "taking" of a listed species by anyone, including private individuals, and State and local agencies. In the case of salt water fish and other marine organisms, the requirements of FESA are enforced by the National Marine Fisheries Service (NMFS). The USFWS enforces all other cases. Sections 7, 9, and 10 of FESA are discussed below because they are the three sections most relevant to the proposed project.

Section 9 of FESA as amended, prohibits the take of any fish or wildlife species listed under FESA as endangered. Under federal regulation, take of fish or wildlife species listed as threatened is prohibited unless otherwise specifically authorized by regulation. "Take," as defined by FESA, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" includes not only the direct taking of a species itself, but the destruction or modification of the species' habitat resulting in the potential injury of the species. As such, "harm" is further defined to mean "an act which actually kills or injures wildlife; such an act may include significant habitat modification or degradation where wildlife is actually killed or injured by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR 17.3). A December 2001 decision by the 9th Circuit Court of Appeals (*Arizona Cattle Growers' Association, Jeff Menges, vs. the U.S. Fish and Wildlife Service and Bureau of Land Management, and the Southwest Center for Biological Diversity*) ruled that the USFWS must show that a threatened or endangered species is present on a project site and would be taken by the project activities. According to the ruling, the USFWS cannot require mitigation based on the probability that the species could use the site; rather the USFWS must show that the species is actually present.

The project site is located in an area that is regulated by the USFWS' Sacramento Endangered Species Office. The office believes the above case was narrowly focused on federal grazing leases and the effects of the leases on federal listed species. Due to the narrow focus, the Sacramento office believes that the case has little bearing in northern California. The office claims that probable use of habitat by a federal listed species would still be subject to the provisions of FESA.

Section 9 applies not only to federal agencies but to any local or State agency, and to any individual as well. If take of a listed species is necessary to complete an otherwise lawful activity, which triggers the need for consultation under Section 7 of FESA (for federal agencies and projects with a federal "nexus" (that is, an authorized, funded or carried out by a federal agency)), or requires preparation of a Habitat Conservation Plan (HCP) pursuant to Section 10 of FESA (for state and local agencies, or individuals, and projects without a federal "nexus").

Section 7(a)(2) of the Act requires that each federal agency shall, in consultation with and with the assistance of the USFWS, insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. Section 4 of the Act requires USFWS to consider economic and other relevant impacts of specifying any particular area as critical habitat.

Federal actions include permitting, funding, and entitlements for both federal projects, as well as private projects facilitated by federal actions (for example, a private landowner applying to the USACE for a permit). As an example, if a federally listed endangered species is present in "waters of the United States" on a project site, prior to authorizing impacts to “waters of the United States,” the USACE (who administers the Clean Water Act) would be required to initiate “formal consultation” with USFWS pursuant to Section 7 of FESA. As part of the formal consultation, the USFWS would then be required to prepare a Biological Opinion based on a review and analysis of the project applicant’s avoidance and mitigation plan. The Biological Opinion will either state that the project will or will not result in take or threaten the continued existence of the species (not just that population). If an endangered species could be harmed by a proposed project, USFWS has to be in complete concurrence with the proposed avoidance and mitigation plan. If USFWS is not in complete concurrence with the mitigation plan, they would submit a Biological Opinion to the USACE containing a “jeopardy decision” and state that a USACE permit should not be issued for the pending project. The applicant would then have an opportunity to submit a revised mitigation plan that provides greater protection for the species.

In the 1982 amendments to FESA, Congress established a provision in Section 10 that allows for the "incidental take" of endangered and threatened species of wildlife by non-federal entities (for example, project applicants, state and local agencies). "Incidental take" is defined by FESA as take that is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." Under Section 10 of FESA, the applicant for an "incidental take permit" is required to submit a "conservation plan" to USFWS or NMFS that specifies, among other things, the impacts that are likely to result from the taking, and the measures the permit applicant would undertake to minimize and mitigate such impacts, and the funding that would be available to implement those steps. Conservation plans under FESA have come to be known as "habitat conservation plans" or "HCPs" for short. The terms incidental take permit, Section 10 permit, and Section 10(a)(1)(B) permit are used interchangeably by USFWS. Section 10(a)(2)(B) of FESA provides statutory criteria that must be satisfied before an incidental take permit can be issued.

Migratory Bird Treaty Act

Raptors (birds of prey), migratory birds, and other avian species are protected by a number of state and federal laws. The federal MBTA prohibits the killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of Interior. Section 3503.5 of the California Fish and Game Code states, “It is unlawful to take, possess, or destroy any birds in the order *Falconiformes* or *Strigiformes* (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.”

Clean Water Act

The USACE regulates discharge of dredged or fill material into Waters of the United States under Section 404 of the CWA. “Discharge of fill material” is defined as the addition of fill material into Waters of the U.S., including but not limited to the following: placement of fill that is necessary for the construction of any structure, or impoundment requiring rock, sand, dirt, or other material

for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; and fill for intake and outfall pipes and sub-aqueous utility lines (33 C.F.R. §328.2[f]). In addition, Section 401 of the CWA (33 U.S.C. 1341) requires any applicant for a federal license or permit to conduct any activity that may result in a discharge of a pollutant into Waters of the United States to obtain a certification that the discharge will comply with the applicable effluent limitations and water quality standards.

Waters of the United States include a range of wet environments such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, and wet meadows. Wetlands are defined as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 C.F.R. §328.3[b]).

Furthermore, Jurisdictional Waters of the United States can be defined by exhibiting a defined bed and bank and ordinary high water mark (OHWM). The OHWM is defined by the USACE as "that line on shore established by the fluctuations of water and indicated by physical character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas" (33 C.F.R. §328.3[e]).

State Regulations

The following are the State environmental laws and policies relevant to biological resources.

California Endangered Species Act

The State of California enacted the CESA in 1984. The CESA is similar to the FESA but pertains to State-listed endangered and threatened species. CESA requires state agencies to consult with the CDFW when preparing CEQA documents to ensure that the state lead agency actions do not jeopardize the existence of listed species. CESA directs agencies to consult with CDFW on projects or actions that could affect listed species, directs CDFW to determine whether jeopardy would occur, and allows CDFW to identify "reasonable and prudent alternatives" to the project consistent with conserving the species. Agencies can approve a project that affects a listed species if they determine that "overriding considerations" exist; however, the agencies are prohibited from approving projects that would result in the extinction of a listed species.

The CESA prohibits the taking of State-listed endangered or threatened plant and wildlife species. CDFW exercises authority over mitigation projects involving state-listed species, including those resulting from CEQA mitigation requirements. CDFW may authorize taking if an approved habitat management plan or management agreement that avoids or compensates for possible jeopardy is implemented. CDFW requires preparation of mitigation plans in accordance with published guidelines.

The CDFW exercises jurisdiction over wetland and riparian resources associated with rivers, streams, and lakes under California Fish and Game Code Sections 1600 to 1607. The CDFW has

the authority to regulate work that will substantially divert, obstruct, or change the natural flow of a river, stream, or lake; substantially change the bed, channel, or bank of a river, stream, or lake; or use material from a streambed.

In addition, CDFW enforces the Fish and Game Code of California, which provides protection for "fully protected birds" (§3511), "fully protected mammals" (§4700), "fully protected reptiles and amphibians" (§5050), and "fully protected fish" (§5515). The California Code of Federal Regulations (Title 14) prohibits the take of Protected amphibians (Chapter 5, §41), Protected reptiles (Chapter 5, §42) and Protected furbearers (Chapter 5, §460). The California Endangered Species Act, which prohibits 'take' of state-listed Endangered or Threatened species, is also enforced by CDFW.

Waters of the State

Waters of the State, including wetlands, are considered sensitive biological resources and fall under the jurisdiction of the CDFW and California's Regional Water Quality Control Boards (RWQCBs).

The CDFW exercises jurisdiction over wetland and riparian resources associated with rivers, streams, and lakes under Fish and Game Code Section 1600 to 1616. The CDFW has the authority to regulate work that will substantially divert, obstruct, or change the natural flow of a river, stream, or lake; substantially change the bed, channel, or bank of a river, stream, or lake; or use material from a streambed. CDFW's jurisdictional area along a river, stream or creek is usually bounded by the top-of-bank or the outermost edges of riparian vegetation. Typical activities regulated by CDFW under Section 1600-1616 authority include installing outfalls, stabilizing banks, implementing flood control projects, constructing river and stream crossings, diverting water, damming streams, gravel mining, and logging.

Regional Water Quality Control Board

Pursuant to Section 401 of the CWA and EPA 404(b)(1) guidelines, in order for a USACE federal permit applicant to conduct any activity which may result in discharge into navigable waters, they must provide a certification from the RWQCB that such discharge will comply with the State water quality standards. The RWQCB has a policy of no-net-loss of wetlands in effect and typically requires mitigation for all impacts to wetlands before the RWQCB will issue water quality certification.

Under the Porter-Cologne Water Quality Control Act (Cal. Water Code Section 13000-14920), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the State's waters. Therefore, even if a project does not require a federal permit (i.e., a Nationwide Permit from the USACE), the project may still require review and approval of the RWQCB, in light of the approval of new NWPs on March 9, 2000 and the Supreme Court's decision in the case of the Solid Waste Agency of Northern Cook County (SWANCC) vs. USACE. The RWQCB in response to this, issued guidance for regulation of discharges to "isolated" water on June 25, 2004. The guidance states:

> Discharges subject to Clean Water Act section 404 receive a level of regulatory review and protection by the USACE and are also subject to streambed alteration agreements issued by the CDFW; whereas discharges to waters of the State subject to SWANCC receive no federal oversight and usually fall out of CDFW jurisdiction. Absent of RWQCB attention, such discharges will generally go entirely unregulated. Therefore, to the extent that staffing constraints require the RWQCB to regulate some dredge and fill discharges of similar extent, severity, and permanence to federally-protected waters of similar value. Dredging, filling, or excavation of "isolated" waters constitutes a discharge of waste to waters of the State, and prospective dischargers are required to submit a report of waste discharge to the RWQCB and comply with other requirements of Porter-Cologne.

When reviewing applications, the RWQCB focuses on ensuring that projects do not adversely affect the "beneficial uses" associated with waters of the State. Generally, the RWQCB defines beneficial uses to include all of the resources, services and qualities of aquatic ecosystems and underground aquifers that benefit the State. In most cases, the RWQCB seeks to protect these beneficial uses by requiring the integration of water quality control measures into projects that will result in discharge into waters of the State. For most construction projects, RWQCB requires the use of construction and post-construction Best Management Practices (BMPs). In many cases, proper use of BMPs, including bioengineering detention ponds, grassy swales, sand filters, modified roof techniques, drains, and other features, will speed project approval from RWQCB. Development setbacks from creeks are also requested by RWQCB as they often lead to less creek-related impacts in the future.

Local Regulations

The following are the local environmental laws and policies relevant to biological resources.

City of Davis General Plan

The applicable Davis General Plan policies and standards relating to biological resources are presented below.

Goal HAB 1 Identify, protect, restore, enhance and create natural habitats. Protect and improve biodiversity consistent with the natural biodiversity of the region.

Policy HAB 1.1 Protect existing natural habitat areas, including designated Natural Habitat Areas.

Policy HAB 1.2 Enhance and restore natural areas and create new wildlife habitat areas.

Standard HAB 1.2a: Native plants should be used wherever possible in public and private landscaping.

Standard HAB 1.2b: Storm-retention ponds, drainage ponds, groundwater recharge areas, channels, and other similar areas should be designated and managed as

wildlife habitats when appropriate and environmentally sound.

Standard HAB 1.2c: Landscaping should provide wildlife habitat where appropriate.

Standard HAB 1.2e: As a means to promote safety of habitat areas from toxic materials, new habitat areas should be designated on non-agricultural lands or on agricultural lands that are in organic production.

Gateway/Olive Drive Specific Plan

The applicable goals relating to biological resources included in the Gateway/Olive Drive Specific Plan are presented below:

Goal 5 Develop a plan which preserves the historic and biotic qualities of the public area, while:

a. Respecting and promoting the historical character and ambiance of the East Olive Drive neighborhood.
b. Preserving historic and cultural resources, including natural landforms, and integrating these into the development of the specific plan.

The applicable guiding policies relating to biological resources included in Chapter IV, Section E of the Gateway/Olive Drive Specific Plan, are presented below:

(8) All significant trees shall be preserved and protected. Significant trees are those that have been identified as rare, or extraordinary or significant specimens in the biological analysis.

(9) Prior to recordation of any final map, a tree protection plan shall be submitted addressing all significant and healthy trees for review and Department [sic].

(10) To ensure that the East Olive Drive character is maintained, new trees shall be planted to fill in gaps in the streetscape for future generations to enjoy. New development in the East Olive Drive Area shall be responsible for the costs of this planting, augmented where feasible by the City or Tree Davis planting.

Yolo Habitat Conservation Plan/Natural Community Conservation Plan

The Yolo Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) aims to conserve natural open space and agricultural areas that provide habitat for special-status and at-risk species found within the habitats and natural communities in Yolo County.[5] The habitat conservation goals are supplemented by additional goals related to preservation of the County's agricultural character and promotion of economic development, as well as enhancement of opportunities for recreation in natural areas. When completed and approved, the plan will incorporate measures to conserve important biological resources, provide streamlined permitting for appropriate urban growth and public infrastructure projects, and support the preservation of Yolo County's rich agricultural heritage. All activities of the HCP/NCCP are conducted under the oversight of the Yolo Habitat Conservancy (YHC), formerly the Yolo County HCP/NCCP Joint Powers Agency (JPA).

The Second Administrative Draft Yolo HCP/NCCP was released on March 31, 2015, and the public comment period for the Second Administrative Draft closed on May 29, 2015. The final HCP/NCCP is expected to be adopted by May 2017. At that time, covered activities will be subject to new permit procedures and mitigation/conservation requirements for impacts to covered species/habitat.

Swainson's Hawk Mitigation Program

The YHC administers a program for the County, and the cities of Davis, Woodland, Winters, and West Sacramento, to implement the agreement with the CDFW regarding impacts to Swainson's hawk foraging habitat ("Swainson's Hawk Interim Mitigation Fee" program). The YHC reviews applications for development of open land within the HCP/NCCP planning area and collects acreage-based mitigation fees for development of the lands. The mitigation fees are to be sufficient to fund the acquisition, enhancement, and long-term management of one acre of Swainson's hawk foraging habitat for every one acre of foraging habitat that is lost to urban development. The interim program, which is dependent on completion of the Yolo County HCP/NCCP, is limited to providing mitigation for impacts to foraging habitat and does not authorize incidental take of Swainson's hawks.

City of Davis Municipal Code

The City of Davis regulates tree planting and removal within the community in Chapter 37, Tree Planting, Preservation, and Protection, of the Municipal Code. Article 37.01 contains the administrative provisions, the pertinent sections of which are as follows:

[5] Yolo Habitat Conservancy. *About the Yolo Habitat Conservancy.* Available at: http://www.yolohabitatconservancy.org/about. Accessed January 16, 2017.

37.01.020 Definitions

> City tree. Any tree, other than a street tree, planted or maintained by the city within a city easement, right-of-way, park, greenbelt, public place or property owned or leased by the city.
>
> Landmark tree. A tree that has determined [sic] by resolution of the City Council to be of high value because of its species, size, age, form, historical significance, or some other professional criterion. The landmark tree list, available from the community services department, lists these identified trees.
>
> Private tree. Any tree privately owned and growing on private property, which may include landmark trees and/or trees of significance.
>
> Street tree. Any tree planted and/or maintained by the city, or recorded as a street tree, adjacent to a street or within a city easement or right-of-way on private property, within the street tree easement.
>
> Tree. Any woody perennial plant having one or several main stems commonly achieving ten or more feet in height and capable of being pruned and shaped to develop a branch-free trunk at least nine feet in height. Reference to any tree indicates the entire plant, including both visible (canopy, trunk) and below grade (roots).
>
> Tree of significance. Any tree included but not limited to those listed as per Section 37.03.050 as small and large trees which measure five inches or more in diameter (DBH).

In addition, Article 37.03 contains the criteria for landmark trees and trees of significance, the pertinent sections of which are as follows:

37.03.020 Landmark tree designation criteria

> (a) Any person may and is encouraged to submit a proposal to designate a tree as a landmark tree. Property owners of trees under consideration shall be notified that a proposal has been submitted and shall have the opportunity to be fully involved in the designation process. Proposals shall be reviewed by the director and sent to the tree commission for its review. Upon recommendation of the tree commission and approval of the City Council, a tree may be designated as a landmark tree if it meets any of the following criteria:
>
> (1) The tree is an outstanding specimen of a desirable species;
> (2) The tree is one of the largest or oldest trees in Davis;
> (3) The tree is of historical interest;
> (4) The tree is of distinctive form; or,
> (5) The tree is an unusual species, significant grove or is otherwise unique.

> The director shall notify, in writing, the person who submitted the proposal and the tree owner (if different from the applicant) of the City Council's decision.
>
> (b) When considering designating, removing designation (per Section 37.03.040) or removing (per Sections 37.03.060 and 37.03.070) landmark trees of historic value, the historical resources management commission shall be given the opportunity to comment on the proposal prior to tree commission review. (Ord. 2099 § 1, 2002)

37.03.050 Trees of significance – Identification and classification

> All trees of significance are considered significant at five inches or greater in diameter (DBH). The following list of potential trees of significance divides tree species into two separate categories based upon their potential size at maturity; however, this list is not exhaustive. Should a property owner not know how a specific tree(s) five inches or greater may be affected by this section, (such as identification of species or species not on the list), the property owner may contact the city arborist. Not all trees on the following lists are appropriate for street trees or parking lot trees. For recommended street trees and parking lot trees, the City of Davis master tree list should be consulted.

Section 37.03.050 of the Municipal Code protects 25 small tree species and 43 large tree species. However, as noted above, the listed tree species is not exhaustive.

Article 37.03.060 requires approval of a valid tree removal request and/or tree modification permit prior to cutting down, pruning substantially, encroaching into the protection zone of, or topping or relocating any landmark tree or tree of significance. Furthermore, Article 37.05 contains protection procedures to be implemented during grading, construction, or other site-related work. Such procedures, include, but are not limited to, inclusion of tree protection measures on approved development plans and specifications, and inclusion of tree care practices, such as the cutting of roots, pruning, etc., in approved tree modification permits, tree preservation plans, or project conditions.

4.3.4 IMPACTS AND MITIGATION MEASURES

This section describes the standards of significance and methodology utilized to analyze and determine the proposed project's potential impacts related to biological resources.

Standards of Significance

Consistent with Appendix G of the CEQA Guidelines, a significant impact would occur if the proposed project would result in the following:

- 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 CDFW or USFWS;

- 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;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- 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;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;
- Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or state habitat conservation plan; or
- Conflict, or create an inconsistency, with any applicable plan, policy, or regulation adopted for the purpose of avoiding or mitigating environmental effects related to biological resources.

Method of Analysis

The information contained in this analysis is based on the Biological Resources Evaluation prepared by Miriam Green Associates and the Arborist Report prepared by Tree Associates.

Biological Resources Evaluation

To evaluate and describe the presence or absence and quality of common and sensitive biological resources on the project site and identify potential effects of project implementation on those resources, Miriam Green Associates reviewed several existing biological data sources for the project site and vicinity and subsequently conducted reconnaissance-level surveys on September 29, 2015 and October 7, 2016. Based on a review of existing data and the results of reconnaissance-level surveys, the Biological Resources Evaluation concluded that protocol-level or intensive species-specific surveys were not required for the project site. The data sources reviewed by Miriam Green Associates included:

- California Department of Fish and Wildlife's Natural Diversity Database (CNDDB) record search within a five-mile radius of the project site (CNDDB 2016),
- Potential modeled habitat for Lincoln40 project area (Yolo Habitat Conservancy), and
- Tree Evaluation, Appraisal, Development Impact Assessment and Preservation Guidelines Lincoln40 Project, Olive Drive, Davis, California (Tree Associates 2016)

Arborist Report

The arborist report includes an evaluation, appraisal, and development impact assessment, as well as preservation guidelines, for all on-site trees of significance, as defined by Chapter 37 of the City of Davis Municipal Code (i.e., trees greater than five inches in diameter).

As part of the arborist report, on-site trees of significance were identified, tagged in the field, and evaluated between November 7, 2015 and November 17, 2015. Two off-site trees were accidentally tagged. The two trees, numbered 95 and 96, were not included in the report.

For each of the trees meeting the City of Davis's criteria, the following data were included in the arborist report:

- Tree Number – a number corresponding to a round aluminum tag affixed to each tree;
- Species – both the common and Latin name of the tree;
- Trunk Diameter – the diameter of the tree (in inches) at 4.5 feet above grade, unless measurement at another location between 1 and 5 feet above grade provided a more accurate reflection of the size of the tree;
- Dripline – the approximate maximum (wheel measured) distance from the trunk to the edge of the branches, in feet;
- Tree Protection Zone (TPZ) – the radius in feet of a circular tree protection zone recommended by Tree Associates;
- Condition Rating – rating of the condition of the tree on a scale of zero to 100 percent, based on visible features and characteristics of tree health and structure;
- Comments – comments regarding tree and landscape features that influenced condition and location ratings; and
- Recommendations – recommendations for tree work or treatments to improve tree structure or health, or for further evaluation, where necessary.

Project-Specific Impacts and Mitigation Measures

The following discussion of impacts is based on the implementation of the proposed project in comparison with the standards of significance identified above. Please note that impacts to Northern California black walnut, a special-status species, are addressed in Impact 4.3-7, pertaining to tree impacts.

4.3-1 Have a substantial adverse effect, either directly or through habitat modifications, on Swainson's hawk. Based on the analysis below and with implementation of mitigation, the impact is *less than significant*.

Development of the Lincoln40 site could result in a reduction in available potential foraging habitat for Swainson's hawks as a result of conversion of ruderal grassland. Loss of ruderal grassland on the project site is considered less than significant because such grassland is surrounded by urban uses, is mowed periodically for fire and weed management, is fragmented by structures, and provides only low quality habitat. In addition, according to the Yolo Conservancy's comments on the Notice of Preparation (NOP) issued for Lincoln40, the Yolo Habitat Conservancy's habitat model did not identify any habitat for Swainson's hawk or any of the twelve species included in the Draft Yolo HCP/NCCP on the proposed project site.[6]

[6] Yolo Habitat Conservancy. *Response to Lincoln40 Project Notice of Preparation of a Draft EIR*. September 27, 2016.

Although Swainson's hawk nests were not observed on, or adjacent to, the project site during the 2015 or 2016 fall surveys, the possibility exists that before the onset of construction, a pair could establish a nest on, or adjacent to, the project site. Furthermore, the surveys were conducted outside of the Swainson's hawk breeding season. As of 2016, the closest known active nest was located approximately 1,000 feet from the project site at 4th and I streets in Old East Davis.

Construction activities associated with the project could result in the direct loss of potential nesting habitat or temporary disruption of breeding. Removal of existing mature trees could remove an active nest that may establish before the initiation of construction. Although raptor nests were not observed during either site survey, the project site provides suitable nesting habitat. Disturbance or loss of potential Swainson's hawk nesting trees and/or active nests would be considered a significant impact. Therefore, the proposed project could result in a ***significant*** impact to Swainson's hawk.

Mitigation Measure(s)
Implementation of the following mitigation measures would reduce the above impact to a *less-than-significant* level.

4.3-1(a) *For construction activities occurring between February 1 and August 31, the project applicant shall retain a qualified biologist to conduct surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee 2000 guidelines (SHTAC 2000) or currently accepted guidance/industry standards, subject to review and approval by the Department of Community Development and Sustainability. Surveys shall encompass a 0.25-mile minimum radius around the construction area. If Swainson's hawk and/or Swainson's hawk nests are not observed during the survey, further mitigation is not required. If nesting Swainson's hawks are detected, a 0.25-mile, no-disturbance buffer should be established, depending on location. The buffer shall be maintained until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival. The buffer distance may be reduced in consultation with CDFW and the Department of Community Development and Sustainability if an adequate visual buffer exists between the construction and an active nest, and if the nesting pair is not disturbed by the noise and activity on the construction site. This is done on a case-by-case basis if a nest has been established prior to or during construction.*

4.3-1(b) *If an active Swainson's hawk nest is found within the project site and the nesting tree is to be removed during construction activities, removal shall take place only after (1) the qualified biologist has determined that the young have fledged (typically by August 31st) and are no longer reliant upon the nest or parental care for survival, and (2) outside of the Swainson's hawk nesting season (February 1 to August 31). If any nesting tree is removed, a tree replacement plan shall be prepared, in consultation with CDFW and the Department of Community Development and Sustainability,*

to replace the nest trees. The tree replacement plan shall require the nesting tree(s) be replaced on a 1:1 basis and planted at an on-site or off-site location selected by the project applicant in consultation with CDFW and the Department of Community Development and Sustainability. The tree replacement plan shall also require that a qualified biologist monitor any replacement trees on an annual basis for five years to ensure the survivability of replacement trees. Results of the monitoring shall be submitted to the Department of Community Development and Sustainability for review and approval.

4.3-2 Have a substantial adverse effect, either directly or through habitat modifications, on burrowing owl. Based on the analysis below and with implementation of mitigation, the impact is *less than significant.*

Although burrowing owls or their sign (i.e., pellets or whitewash around ground squirrel burrows) were not observed during the field surveys, the proposed project site could provide potential nesting habitat for burrowing owls. As a result, construction activities associated with development of the project site could result in the direct loss of burrowing owls or temporary disruption of feeding or breeding behavior. The potential impacts from construction activities would vary depending on the location and timing of construction. In addition, the project site could become more attractive to burrowing owls during construction as existing structures and vegetation are removed. Therefore, the proposed project could have a ***significant*** impact to burrowing owls.

Mitigation Measure(s)
Implementation of the following mitigation measures would reduce the above impact to a *less-than-significant* level.

4.3-2(a) The project applicant shall implement the following measures to avoid or minimize impacts to western burrowing owl:

- *No more than 14 days prior to initiation of ground disturbing activities, the project applicant shall retain a qualified burrowing owl biologist to conduct a take avoidance survey of the proposed project site, any off-site improvement areas, and all publicly accessible potential burrowing owl habitat within 500 feet of the project construction footprint. The survey shall be performed in accordance with the applicable sections of the March 7, 2012, CDFW's Staff Report on Burrowing Owl Mitigation guidelines. If the survey does not identify any nesting burrowing owls on the proposed project site, further mitigation is not required. The take avoidance survey shall be submitted to the City of Davis Department of Community Development and Sustainability for review. The survey periods and number of surveys are identified below:*
    - *If construction related activities commence during the non-breeding season (1 September to 31 January), a minimum of*

one take avoidance survey shall be conducted of that phase and all publicly accessible potential burrowing owl habitat within 500 feet of the construction footprint of that phase.

- *If construction related activities commence during the early breeding season (1 February to 15 April), a minimum of one take avoidance survey shall be conducted of that phase and all publicly accessible potential burrowing owl habitat within 500 feet of the construction footprint of that phase.*
- *If construction related activities commence during the breeding season (16 April to 30 August), a minimum of three take avoidance surveys shall be conducted of that phase and all publicly accessible potential burrowing owl habitat within 500 feet of the construction footprint of that phase. If construction related activities commence after 15 June, at least one of the three surveys shall be completed after 15 June.*
- *Because the owls are known to occur nearby and may take up occupancy on a site under construction, the take avoidance survey shall be conducted prior to the start of any new phase, and/or if construction-related activity is delayed or suspended for more than 30 days.*

- *If active burrowing owl dens are found within the survey area in an area where disturbance would occur, the project applicant shall implement measures consistent with the applicable portions of the March 7, 2012, CDFW's Staff Report on Burrowing Owl Mitigation guidelines. If needed, as determined by the biologist, the formulation of avoidance and minimization approaches would be developed in coordination with the CDFW. The avoidance and minimization approaches would likely include burrow avoidance buffers during the nesting season (February to August). For burrowing owls present on-site, outside of the nesting season, passive exclusion of owls from the burrows could be utilized under a CDFW-approved burrow exclusion plan.*

4.3-2(b) *If active owl burrows are present and the project would impact active burrows, the project applicant shall provide compensatory mitigation for the permanent loss of burrowing owl habitat at a ratio of 2.5 acres of higher quality owl habitat for every one acre of suitable owl habitat disturbed. The calculation of habitat loss may exclude acres currently occupied by hardscape or structures. Such mitigation may include the permanent protection of land that is deemed to be suitable burrowing owl habitat through a conservation easement deeded to a non-profit conservation organization or public agency with a conservation mission, or the purchase of burrowing owl conservation bank credits from a CDFW-approved burrowing owl conservation bank. A record of the compensatory mitigation provided by the project applicant shall be submitted to the City of Davis*

Department of Community Development and Sustainability prior to initiation of ground disturbing activities.

4.3-3 Have a substantial adverse effect, either directly or through habitat modifications, on raptors, nesting birds, or other birds protected under the MBTA. Based on the analysis below and with implementation of mitigation, the impact is *less than significant.*

Birds and their nests are protected under California Fish and Game Code (Sections 3503, 3503.5, 3513), and the MBTA. Due to the fact that most birds can fly out of harms-way, development of the project site would not be expected to harm adult birds. However, development of the project site would result in impacts to trees and other vegetation that provide nesting opportunities for special-status birds including white-tailed kite, and other raptors and migratory birds. The potential impacts from construction activities would vary depending on the location and timing of construction. The disturbance or loss of an active nest or special-status bird or raptor species would be considered a ***significant*** impact.

Mitigation Measure(s)
Implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

4.3-3 *The project applicant shall implement the following measures to avoid or minimize impacts to white-tailed kite, other raptors, and protected migratory bird species:*

- *If any site disturbance or construction activity for any phase of development begins outside the February 1 to August 31 breeding season, a preconstruction survey for active nests shall not be required.*
- *If any site disturbance or construction activity for any phase of development is scheduled to begin between February 1 and August 31, a qualified biologist shall conduct a preconstruction survey for active nests from publicly accessible areas within 14 days prior site disturbance or construction activity for any phase of development. The survey area shall cover the construction site and the area surrounding the construction site, including a 100-foot radius for MBTA birds, and a 500-foot radius for birds of prey. If an active nest of a bird of prey, MBTA bird, or other protected bird is not found, then further mitigation measures are not necessary. The preconstruction survey shall be submitted to the City of Davis Department of Community Development and Sustainability for review.*
- *If an active nest of a bird of prey, MBTA bird, or other protected bird is discovered that may be adversely affected by any site disturbance or construction or an injured or killed bird is found, the project applicant shall immediately:*

- *Stop all work within a 100-foot radius of the discovery.*
- *Notify the City of Davis Department of Community Development and Sustainability.*
- *Do not resume work within the 100-foot radius until authorized by the biologist.*
- *The biologist shall establish a minimum 500-foot Environmentally Sensitive Area (ESA) around the nest if the nest is of a bird of prey, and a minimum 100-foot ESA around the nest if the nest is of an MBTA bird other than a bird of prey. The ESA may be reduced if the biologist determines that a smaller ESA would still adequately protect the active nest. Further work may not occur within the ESA until the biologist determines that the nest is no longer active.*

4.3-4 Have a substantial adverse effect, either directly or through habitat modifications, on special-status bats. Based on the analysis below and with implementation of mitigation, the impact is *less than significant.*

Although bats or roosts were not observed during the site reconnaissance surveys, a portion of the trees present within the proposed project site could provide suitable roosting habitat for special-status bats such as pallid bat, western red bat, and hoary bat. Development of the project site and tree removal could disturb bat roosts. Therefore, the proposed project could result in a ***significant*** impact to special-status bats.

Mitigation Measure(s)
Implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

4.3-4 *Before ground disturbance is initiated, a qualified biologist shall conduct a habitat assessment survey to determine whether the removal of trees greater than 10 inches in diameter at breast height (DBH) support bat roosts. Trees shall be surveyed within 14 days before the onset of construction. Surveys shall consist of daytime pedestrian surveys looking for potential roosting habitat such as branch and bole hollows, exfoliating bark and other crevices and cavities, and may include an evening emergence survey with acoustic equipment to note the presence or absence of bats. The emergence survey is necessary to survey for foliage-roosting bat species (western red bat and hoary bat). The three special-status bat species potentially occurring on the site should be identifiable utilizing acoustic equipment.*

If bats are not acoustically detected and potential roosting habitat is not identified, then further study and mitigation is not required. If evidence of bat use is detected, the biologist shall determine the approximate number and species of bats using the roost, and roost type (i.e., individual or maternity roost). A 100-foot buffer shall be created around the roost and

project-related activities shall not occur within the buffer until after one of the steps below is performed:

- *A qualified biologist has determined that the roost is no longer in use.*
- *A qualified biologist determines that bat exclusion is feasible and confirms that all bats have been excluded from the daytime roost. Bat exclusion shall not occur between April 1 and September 15 (depending on type of roost and location), which coincides with the maternity season in California.*
- *Trees that potentially support active roosts have been removed. However, if bat roosts are detected on the project site, trees shall not be removed from April 1 to September 15 in order to avoid the maternity season. Subject to monitoring by a qualified biologist, trees that potentially support active roosts may be removed outside of the maternity season using procedures that create noise and cause vibration, which are designed to cause bats to leave potential roosts.*

Results of the habitat assessment survey shall be submitted to the City of Davis Department of Community Development and Sustainability for review.

4.3-5 Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Based on the analysis below, the impact is *less than significant.*

According to the Biological Resources Evaluation, the proposed project site does not contain wetland features and would not result in the disturbance of any such features. As a result, the proposed project would not have a substantial adverse effect on a federally protected wetland, as defined by Section 404 of the CWA. Therefore, a ***less-than-significant*** impact would occur.

Mitigation Measure(s)
None required.

4.3-6 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. Based on the analysis below, the impact is *less than significant.*

Movement of wildlife on the proposed project site in the north-to-south direction is substantially limited by the existing UPRR tracks along the north border of the site. The tracks are separated from the project site by a continuous chainlink fence. East-west

movement of wildlife through the project site is limited by the surrounding residential developments as well as Olive Drive, which forms the south border of the site. In addition, the site is currently developed with ten single-family homes and an apartment complex.

Overall, the proposed project site is located in a developed urban area, and, as such, the potential for use of the site as a wildlife corridor or native wildlife nursery site is severely limited. The site does not contain any existing waterways that would provide habitat for native resident or migratory fish. Therefore, the proposed project would not 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, and a ***less-than-significant*** impact would occur.

Mitigation Measure(s)
None required.

4.3-7 Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Based on the analysis below and with implementation of mitigation, the impact is *less than significant.*

According to the site-specific arborist report, a total of 180 trees are located on-site (see Figure 4.3-1). The arborist report classified all of the 180 trees as trees of significance. A total of 93 of the on-site protected trees (48 percent of the total on-site population) are recommended for removal due to their poor condition, as determined by the arborist. Removal of trees due to a rating of poor health, as identified by an arborist, does not require replacement plantings.

In order to accommodate the proposed site plan, the proposed project will require the removal of a total of 38 protected trees (21 percent of the tree population) (see Figure 4.3-1), plus one tree identified for avoidance would be subject to moderate/high impact during construction. This results in a total of 48 trees that would be preserved on-site. In order to help ensure minimal modifications within the driplines of trees nearest to the proposed parking area, the project design includes a total of 21 gravel parking spaces along the northern boundary, within tree driplines.

Figure 4.3-1
Trees to be Removed and Retained

Tree Replacement Mitigation

Some of the 39 trees requiring removal to accommodate the project have multiple trunks. For these trees, tree size was determined by adding the cross-sectional area of the stems and correlating this with a single trunk diameter. In total, the trees that require removal to develop the proposed project include 523 inches in trunk diameter, and the tree with a moderate/high impact is 25 inches in trunk diameter. To adequately offset tree impacts of the proposed project, replacement trees shall be replanted on-site consistent with the following criteria:[7]

- A minimum of 65 replacement trees shall be replanted onsite using 24-inch box trees or larger.

The project plans achieve this by proposing the planting of 71, 24-inch box trees (see Figure 4.3-2).

Additional Davis Municipal Code Standards

The City of Davis has adopted a tree ordinance designed to address the environmental benefits of the City's community forest in addition to its social and economic benefits. (Davis Municipal Code, §37.01.010.) Among other requirements, the ordinance generally requires one or more of the following measures where a development project requires removal of trees: (1) on-site replacement, (2) off-site replacement, and/or (3) payment of in lieu fees. (Davis Municipal Code, §37.03.070(d)(2).) Pursuant to the ordinance, the total replacement trees or in lieu fees must equal 523 inches (the combined trunk diameter of the trees proposed for removal to develop the proposed project).

Twenty-four-inch box trees are considered to have a two-inch diameter. Therefore, assuming 71 replacement trees are provided by the proposed project, then the proposed project would receive 142 inches of "credit" from on-site tree planting under the City's ordinance. Pursuant to the ordinance, an additional 381 inches of plantings or in lieu fees would be required by the applicant.

[7] Tree Associates. *Arborist Report, Lincoln40 Project, Olive Drive, Davis, California* [pg. 8]. February 4, 2017.

Figure 4.3-2
Trees to be Retained and Planted

Northern California Black Walnut

The Northern California black walnut is in the 1B.1 California Rare Plant Rank list, which indicates plants that are rare, threatened, or endangered in California and elsewhere by the CNPS. The arborist report identified 15 California black walnut trees on the proposed project site. The arborist report determined that a majority of the trees are rated to be of poor health. Due to poor condition, 13 of the identified Northern California black walnut trees are recommended for removal by the project arborist (#2, #8, #13 through #16, #46, #47, #133, #144, #149, #150, and #152). The only two California black walnuts that are not considered poor health are being retained on-site (#5 and #6). Therefore, the project would not adversely impact healthy California black walnut trees that would otherwise be expected to survive on-site without implementation of the proposed project.

Cork Oaks

Four large cork oak trees are located on-site, or partially on-site: trees #40, #41, #128, and #129. Site modifications (other than landscaping to the west of #129) are not anticipated for trees #128 and #129. Therefore, the proposed project would have little to no impact on these trees. However, site modifications are proposed within the protection zones of trees #40 and #41, the trunks of which are located off-site, along Olive Drive, but their crown encroach onto the project site. Table 4.3-3 summarizes the modifications anticipated for these two, large cork oak trees.

In order to minimize development impacts, specific design features and construction methods have been identified by the project arborist within the protection zones of both trees.

Table 4.3-3
Tree Modifications

Tree #	TPZ (ft)	Description of Proposed Development
40	53	Building and wall on piers 30 feet west of the trunk. Sidewalks 13 feet northwest and 22 feet west of the trunk.
41	57	Building 48 feet northwest of the trunk. Walls on Piers 13 feet west of the trunk. Sidewalk eight feet west, 38 feet northwest, and 48 feet northeast of the trunk.

Conclusion

Should the project fail to comply with the tree protection measures for cork oak #40 and #41, as well as the protection measures identified for the trees that are being preserved on-site, the proposed project could result in a ***significant*** impact with respect to conflicting with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Mitigation Measure(s)

Implementation of the following mitigation measures would reduce the above impact to a *less-than-significant* level by ensuring successful implementation of the tree preservation guidelines provided in the project-specific Arborist Report.

4.3-7(a) *The project applicant shall implement the following tree preservation measures prior to and during construction for all trees to be preserved on the proposed project site:*

- *Tree Protection Zones (TPZs): The surveyed trunk locations and TPZs / tree protection fencing shall be indicated on all construction plans for trees to be preserved;*
- *Modified TPZs: Modified TPZs are areas where proposed infrastructure is located within protection zones. These Modified TPZs and fencing shall be indicated as close to infrastructure as possible (minimize overbuild);*
- *The Consulting Arborist shall revise development impact assessment (as needed) for trees to be preserved once construction plans are drafted;*
- *Grading, compaction, trenching, rototilling, vehicle traffic, material storage, spoil, waste, or washout, or any other disturbance within TPZs shall be avoided to the maximum extent feasible.*
- *Any work that is to occur within the TPZs shall be monitored by the Consulting Arborist;*
- *A meeting shall be conducted to discuss tree preservation guidelines with the Consulting Arborist and all contractors, subcontractors, and project managers prior to the initiation of demolition and construction activities;*
- *Prior to any demolition activity on-site, tree protection fencing shall be installed in a circle centered at the tree trunk with a radius equal to the defined TPZ as indicated in the Arborist Report;*
- *Tree protection fences should be made of chain-link with posts sunk into the ground, and shall not be removed or moved until construction is complete;*
- *Any pruning shall be performed per recommendations in the Arborist Report by an ISA Certified Arborist or Tree Worker. Pruning for necessary clearance should be the minimum required to build the project and performed prior to demolition by an ISA Certified Arborist;*
- *If roots larger than 1.5 inches or limbs larger than 3 inches in diameter are cut or damaged during construction, the Consulting Arborist shall be contacted immediately to inspect and recommend appropriate remedial treatments;*
- *All trees to be preserved shall be irrigated once every two weeks,*

spring through fall, to uniformly wet the soil to a depth of at least 18 inches under and beyond the canopies of the trees.

The tree preservation measures shall be included in the notes on construction drawings.

4.3-7(b) *The project applicant shall implement the following tree protection measures prior to and during construction to avoid or minimize impacts to cork oak trees #40 and #41:*

- *All work within the protection zones of the trees shall be supervised by the Consulting Arborist;*
- *Overbuild for the building is to be limited to the path surrounding the building (use shoring as needed);*
- *The grading limits of the building closest to the trunk within the protection zone of tree #40 shall be excavated with water and any roots two inches or larger shall be pre-cut prior to excavation;*
- *The TPZ of trees #40 and #41 (except for the grading area) are to be fenced off prior to demolition and through the construction period and protected from soil disturbance;*
- *Concrete walkways are to be installed on grade without soil scarification;*
- *Walls are to be installed on grade on piers avoiding roots greater than two inches in diameter;*
- *A drip irrigation system (emitters on two-foot centers in the Tree Protection Zone where possible) shall be installed under four inches mulch, which shall be maintained at that thickness; and*
- *The Consulting Arborist shall inspect the trees throughout the construction period and every spring and summer for at least three years following the end of construction. The inspections would include an assessment of, and recommendations to improve, tree health, preservation measures, and irrigation management. The results of each inspection shall be submitted to the City of Davis Department of Community Development and Sustainability.*

The tree preservation measures shall be included in the notes on construction drawings.

4.3-8 Conflict with an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan. Based on the analysis below and with implementation of mitigation, the impact is *less than significant*.

As noted previously, the Yolo HCP/NCCP is not yet an adopted Plan. The Second Administrative Draft HCP/NCCP was released on March 31, 2015, and the public

comment period for the Second Administrative Draft ended May 29, 2015.[8] The plan is anticipated to be adopted by May 2017. The HCP/NCCP would only apply to species covered within the Plan; and it should be noted that mitigation requirements in the Plan for covered species may differ from the mitigation requirements required in this EIR. The HCP/NCCP does not identify habitat on the proposed project site for any of the 12 covered species.

The possibility exists for the HCP/NCCP to be adopted prior to development of the proposed project. Should the HCP/NCCP be in place prior to development of any portion of the project, a ***significant*** impact could occur.

Mitigation Measure(s)
Implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

4.3-8 *Should the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) be adopted prior to initiation of any ground disturbing activities for any phase of development associated with the proposed project, the project applicant shall comply with the mitigation/conservation requirements of the Yolo HCP/NCCP, as applicable. The project applicant, the City of Davis Department of Community Development and Sustainability, and a representative from the YHC shall ensure that all mitigation/conservation requirements of the HCP/NCCP are adhered to prior to and during construction. To the extent there is duplication in mitigation for a given species, the requirements of the HCP/NCCP shall supersede.*

Cumulative Impacts and Mitigation Measures

The following discussion of impacts is based on the implementation of the proposed project in combination with other proposed and pending projects in the region. Other proposed and pending projects in the region under the cumulative context would include buildout of the City's General Plan, as well as development of the most recent planned land uses within the vicinity of the project area. Refer to Chapter 5, Statutorily Required Sections, of this EIR for more detail.

[8] Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency. *Staff Report.* February 23, 2015.

4.3-9 Cumulative loss of habitat in the City of Davis area for special-status species. Based on the analysis below, the impact is *less than cumulatively considerable*.

The proposed project contains a relatively small amount of suitable habitat for special-status species, and buildout of the project site is anticipated in the General Plan. However, buildout of the Davis General Plan area would result in the conversion of a significant amount of agricultural lands to urban uses.[9] Such conversion, in combination with the proposed project, would lead to a significant cumulative impact on habitat loss within the cumulative geographic setting.

The cumulative setting for biological resources includes the City of Davis Planning Area. Development associated with implementation of the Davis General Plan would contribute to the ongoing loss of natural and agricultural lands in the Davis area, which currently provide habitat for a variety of species. Cumulative development would result in the conversion of existing agricultural habitat to urban uses. The Davis General Plan, in addition to regional, State and federal regulations, includes policies and measures that mitigate impacts to biological resources associated with General Plan buildout. Implementation of regional, State and federal regulations, such as the Endangered Species Act would also minimize risks to sensitive populations and reduce cumulative impacts throughout the region.

As described throughout this section of the EIR, construction on the project site has a limited potential to result in impacts to special-status species on the project site. Special-status species do not occur on the project site, other than California black walnut, and the site does not provide unique or sensitive habitat that is critical to the survival of a special-status species. As described herein, mitigation measures will be implemented to ensure that construction activities do not adversely impact biological resources or special-status species. Project implementation would not result in any indirect or offsite impacts to biological resources. Therefore, impacts would be ***less than cumulatively considerable***.

Mitigation Measure(s)
None required.

[9] City of Davis. *General Plan EIR* [pg. 7-22]. January 2000.