

4.1 SUMMARY OF MITIGATION MEASURES

BIOLOGY (SECTION 3.4)

MM 3.4.1 The removal of trees shall be conducted during the non-breeding season for native birds (September 1st through March 1st). This will avoid violations of the Migratory Bird Treaty Act and California Department of Fish and Game Code Sections 3503, 3503.5, and 3513. If construction activities cannot avoid the bird-breeding season, the City shall retain the service of a qualified ornithologist to conduct a survey of the construction zone. The ornithologist survey shall occur not more than 2 days prior to the initiation of the construction activities to minimize the potential that nests are not initiated after the survey and prior to construction. If the ornithologist detects any occupied nests of the native birds within the construction zone, the City contractor shall conspicuously flag off the area(s) supporting bird nests, providing a minimum buffer of 100 feet between the nests and limits of construction. The construction crew shall be instructed to avoid any activities in this zone until the birds' nest(s) is/are no longer occupied, per a subsequent survey by the qualified ornithologist. Alternatively, the City will consult as appropriate with the U.S. Fish and Wildlife Service to discuss the potential loss of nests of native birds covered by the MBTA to obtain, if necessary, a permit authorizing activities that may otherwise result in MBTA violations.

MM 3.4-2 In order to mitigate for potential adverse impacts to nesting Swainson's hawks, a pre-construction survey shall be conducted by a qualified biologist contracted by the applicant or by the City and funded by the applicant. The survey shall be conducted within 30 days of the start of construction activities for a 1/2-mile radius. In addition, a survey of the project site and areas within 500 feet of the project site shall be conducted once in April and once in May. If active Swainson's hawk's nests are found, the applicant shall consult with the Department of Fish and Game and clearing and construction shall be postponed or halted until all young have fledged and additional nesting attempts no longer occur. If a nest tree is found on the subsequent project site prior to construction and is proposed for removal, then appropriate permits from CDFG shall be obtained and mitigation implemented pursuant to CDFG guidelines.

Monitoring Actions

- ***Prior to issuance of building or grading permits***, the applicant shall provide Development Services-Planning written verification that a qualified biologist has been retained by the applicant to perform the pre-construction survey. This action may be waived if the biologist will be contracted by the city at the applicant's expense.
- ***No earlier than 30 days before commencement of construction activities***, including land clearing, the qualified biologist shall submit and certify to the Planning Director, the results of the pre-construction survey. Failure to submit the required survey results will delay the approval to initiate construction activities, including land clearing.
- ***No later than April 30***, the qualified biologist shall submit and certify to the Planning Director, the results of the 500-foot site perimeter survey. Failure to submit the required survey results will cause any construction activity to be

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halted until such results are submitted and approved by the Planning Director. If no construction activities have taken place, failure to submit the required survey results will delay the approval to initiate construction activities, including land clearing.

- ***No later than May 31***, the qualified biologist shall submit and certify to the Planning Director, the results of the 500-foot site perimeter survey. Failure to submit the required survey results will cause any construction activity to be halted until such results are submitted and approved by the Planning Director. If no construction activities have taken place, failure to submit the required survey results will delay the approval to initiate construction activities, including land clearing.

Timing/Implementation: As indicated in the monitoring actions

Enforcement/Monitoring: City of Elk Grove Development Services and CDFG