

**Mitigation Monitoring and Reporting Program  
for  
The Vines at Oakley (Subdivision 9507)  
Draft Initial Study/Mitigated Negative Declaration  
City of Oakley, Contra Costa County, California**

Prepared for:

**City of Oakley**

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**Table 1: The Vines at Oakley Project Mitigation Monitoring and Reporting Program**

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
<b>3. Air Quality</b>					
<p><b>MM AIR-1:</b> During construction activities, the following air pollution control measures shall be implemented:</p> <ul style="list-style-type: none"> <li>Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered 2 times per day.</li> <li>All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>All roadways, driveways, and sidewalks shall be paved as soon as possible.</li> <li>Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</li> <li>All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.</li> <li>A publicly visible sign shall be posted with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours of a complaint or issue notification. The BAAQMD’s phone number shall also be visible to ensure compliance with applicable regulations.</li> </ul>	Notes on construction plans; Site inspection	During construction	City of Oakley		

**Table 1 (cont.): The Vines at Oakley Project Mitigation Monitoring and Reporting Program**

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<p><b>MM AIR-2:</b> During construction activities, all off-road equipment with engines greater than 50 horsepower shall meet either the EPA or ARB Tier IV Interim off-road emission standards. The construction contractor shall maintain records concerning its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.</p> <p>If engines that comply with Tier IV Interim off-road emission standards are not commercially available, then the construction contractor shall use the next cleanest piece of off-road equipment (e.g., Tier III) available. For purposes of this mitigation measure, “commercially available” shall mean the availability of Tier IV Interim engines taking into consideration factors such as critical-path timing of construction and geographic proximity to the project site of equipment. The contractor can maintain records for equipment that is not commercial available by providing letters from at least two rental companies for each piece of off-road equipment where the Tier IV Interim engine is not available.</p>	Notes on construction plans; Site inspection	During construction	City of Oakley		

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<b>4. Biological Resources</b>					
<p><b>MM-BIO-1: To avoid or minimize impacts on the Swainson’s Hawk, the following measures shall be implemented.</b></p> <ul style="list-style-type: none"> <li>• <b>Preconstruction Survey:</b> Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson’s hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of Swainson’s hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring are required.</li> <li>• <b>Avoidance and Minimization and Construction Monitoring:</b> During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the project applicant will coordinate with the CDFW/USFWS to determine the appropriate buffer size.                     <ul style="list-style-type: none"> <li>- If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the lead agency for a waiver of this avoidance measure. Any waiver must also be approved by the USFWS and CDFW. While the nest is occupied, activities outside the buffer can take place.</li> </ul> </li> </ul>	Site inspection; Submittal of documentation	No more than 30 days prior to the start of ground disturbing activities between March 15 and September 15	City of Oakley		

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<p>- All active nest trees will be preserved on-site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project applicant according to the requirements below.</p> <ul style="list-style-type: none"> <li>• <b>Mitigation for Loss of Nest Trees:</b> The loss of non-riparian Swainson’s hawk nest trees will be mitigated by the project applicant by:</li> <li>• If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below.</li> </ul> <p>AND either</p> <ol style="list-style-type: none"> <li>1) Pay the lead agency an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR</li> <li>2) The project applicant will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.</li> </ol> <p>The following requirements will be met for all planting options:</p> <ul style="list-style-type: none"> <li>• Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least 3 years without irrigation.</li> <li>• Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.</li> <li>• Native trees suitable for this site should be planted. When site</li> </ul>					

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<p>conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson’s hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years for cottonwoods and willows) and in the long term (e.g., valley oak, sycamore). This will also minimize the temporal loss of nest trees.</p> <ul style="list-style-type: none"> <li>• Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).</li> <li>• Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the Urban Development Area.</li> <li>• Trees planted in the HCP/NCCP preserves or other approved off-site location will occur within the known range of Swainson’s hawk in the inventory area and as close as possible to high-quality foraging habitat.</li> </ul>					
<p><b>MM-BIO-2:</b> To mitigate impacts on nesting birds, the following measures shall be implemented for construction work during the nesting season (February 15 through August 31):</p> <ul style="list-style-type: none"> <li>• If construction or tree removal is proposed during the breeding/nesting season for migratory birds (typically February 15 through August 31), a qualified biologist shall conduct pre-construction surveys for northern harrier, grasshopper sparrow, pallid bat, Townsend’s big-ear bat, and other migratory birds within the construction area, including a 300-foot survey buffer, no more than 3 days prior to the start of ground disturbing activities in the construction area.</li> <li>• If an active nest is located during pre-construction surveys,</li> </ul>	Site inspection; Submittal of documentation	No more than 3 days prior to the start of ground disturbing activities between February 15 and August 31	City of Oakley		

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<p>the USFWS and/or CDFW (as appropriate) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 300 feet around an active raptor nest and 50-foot radius around an active migratory bird nest) or alteration of the construction schedule.</p> <ul style="list-style-type: none"> <li>A qualified biologist shall delineate the buffer using nest buffer signs, environmentally sensitive area fencing, pin flags, and or flagging tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently.</li> </ul>					
<b>5. Cultural and Tribal Cultural Resources</b>					
<p><b>MM CUL-1:</b> In the event a potentially significant cultural resource is encountered during subsurface earthwork activities, all construction activities within a 100-foot radius of the find shall cease and workers should avoid altering the materials until an archaeologist who meets the Secretary of Interior’s Professional Qualification Standards for archaeology has evaluated the situation. The project applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Potentially significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. The archaeologist shall make recommendations concerning appropriate measures that will be implemented to protect the resource, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5</p>	<p>Notes on construction plans; Site inspection; Submittal of documentation</p>	<p>During construction</p>	<p>City of Oakley</p>		

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of the CEQA Guidelines. Any previously undiscovered resources found during construction within the project Site shall be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and will be submitted to the City of Oakley, the Northwest Information Center, and the State Historic Preservation Office, as required.					
<p><b>MM CUL-2:</b> In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5; Health and Safety Code Section 7050.5; Public Resources Code Section 5097.94, and Section 5097.98 must be followed. If during the course of project development there is accidental discovery or recognition of any human remains, the following steps shall be taken:</p> <ol style="list-style-type: none"> <li>1. There shall be no further excavation or disturbance within 100 feet of the remains until the Contra Costa County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the NAHC within 24 hours, and the NAHC shall identify the person or persons it believes to be the most likely descendant of the deceased Native American. The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.</li> <li>2. Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the</li> </ol>	Notes on construction plans; Site inspection; Submittal of documentation	During construction	City of Oakley		

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<p>project site in a location not subject to further subsurface disturbance:</p> <ul style="list-style-type: none"> <li>• The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.</li> <li>• The descendant identified fails to make a recommendation.</li> <li>• The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.</li> </ul> <p>Additionally, California Public Resources Code Section 15064.5 requires the following relative to Native American Remains:</p> <ul style="list-style-type: none"> <li>• When an initial study identifies the existence of, or the probable likelihood of, Native American Remains within a project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The project applicant may develop a plan for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American Burials with the appropriate Native Americans as identified by the Native American Heritage Commission.</li> </ul>					

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<b>7. Geology and Soils</b>					
<p><b>MM GEO-1:</b> In the event that fossils or fossil-bearing deposits are discovered during construction activities, excavations within a 100-foot radius of the find shall be temporarily halted or diverted. The project contractor shall notify a qualified paleontologist to examine the discovery. The project applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the project applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of construction activities on the discovery. The plan shall be submitted to the City of Oakley for review and approval prior to implementation, and the project applicant shall adhere to the recommendations in the plan.</p>	<p>Notes on construction plans; Site inspection; Submittal of documentation</p>	<p>During construction activities</p>	<p>City of Oakley</p>		

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<b>13. Noise</b>					
<p><b>MM NOI-1:</b> To reduce potential construction noise impacts during project construction, the following multi-part mitigation measure shall be implemented for the project:</p> <ul style="list-style-type: none"> <li>• All construction equipment powered by internal combustion engines shall be properly muffled and maintained.</li> <li>• Quiet construction equipment, particularly air compressors, are to be selected whenever possible.</li> <li>• All stationery noise-generating construction equipment such as tree grinders and air compressors are to be located as far as is practical from existing residences. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.</li> <li>• Unnecessary idling of internal combustion engines is prohibited.</li> <li>• The construction contractor shall, to the maximum extent practical, locate on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.</li> <li>• Use of pile drivers, sources of impulsive sound and jack hammers shall be prohibited on Sundays and holidays, except for emergencies or as approved in advance by the Building Official.</li> <li>• The construction contractor shall limit noise producing construction activity to weekday hours between 7:30 a.m. and 5:30 p.m., with no work allowed on weekends unless otherwise authorized by the City in writing.</li> </ul>	Notes on construction plans; Site inspection	During construction	City of Oakley		

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<b>17. Transportation</b>					
<b>MM TRANS-1:</b> Prior to issuance of the first building permit, the project applicant shall provide the fair share cost to the City of Oakley of the future installation of a signal at the intersection of Live Oak Road/Oakley Road. Payment of traffic impact fees in accordance with the City’s adopted fee schedule would satisfy the applicant’s fair share responsibility for this improvement if it is programmed into the fee program.	Receipt of fees	Prior to issuance of the first building permit	City of Oakley		
<b>MM TRANS-2:</b> Prior to issuance of the first building permit, the project applicant shall prepare and submit improvement plans to the City of Oakley depicting modifications to the existing median within Oakley Road to permit left-in, left-out access.	Receipt of fees	Prior to issuance of the first building permit	City of Oakley		

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