

# Mitigation Monitoring and Reporting Program

## Bradbury Ranch Master Plan EIR

### 1.1 Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. A set of project conditions would include enough detailed information and enforcement procedures to ensure compliance with each mitigation measure.

### 1.2 Monitoring and Reporting Program

The basis for this monitoring program is the mitigation measures included in the supplemental EIR prepared for the proposed project. The mitigation measures are designed to avoid or reduce significant adverse environmental effects to less than significant levels where feasible. The mitigation measures become conditions of project approval, which the project applicant and/or future individual project developers are required to implement. This monitoring program is designed as a tool to ensure that mitigation measures and subsequent conditions of approval are implemented. It lists mitigation measures included in the supplemental EIR based on the steps in the development implementation process by which each should be implemented.

### 1.3 Monitoring and Reporting Program Procedures

The County of Merced will implement the monitoring program as follows:

1. The Merced County Community Development Department will be responsible for coordination of the monitoring program, including the monitoring checklist. The Community Development Department will be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures.

2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community and Economic Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community and Economic Development Department.
3. The Merced County Community and Economic Development Department will review the checklist to ensure that mitigation measures included in the monitoring checklist have been complied with at the appropriate time, e.g., prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Community and Economic Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the County of Merced.

## 1.4 Monitoring and Reporting Checklist

### Step 1 – Prior to Approval of Future Individual Projects

OS 3.2.a Prior to the subdivision / development of a master plan area or the subdivision / development of vacant or underutilized land identified as Important Farmland, as defined by the California Department of Conservation, that is equal to or greater than 20 acres, the applicant shall place farmland of equal or higher quality into a permanent agriculture conservation easement at a ratio of one (1) acre of agriculture conservation easement for every acre of Important Farmland subdivided / developed.

In the event the County of Merced adopts an agriculture impact mitigation program / ordinance that defines the method(s) by which the loss of Important Farmland shall be mitigated (e.g., in-lieu fee, agriculture conservation easement replacement ratio criteria, timing of dedication, etc.), projects which meet the agriculture impact mitigation program / ordinance criteria will be subject to the requirements of the program / ordinance.

*Note: This mitigation measure from the Delbi Community Plan EIR is incorporated into the Bradbury Ranch Master Plan Supplemental EIR and is applicable to the proposed project.*



*Note: This mitigation measure from the Delbi Community Plan EIR is incorporated into the Bradbury Ranch Master Plan Supplemental EIR and is applicable to the proposed project.*

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

**Monitoring Notes:**

---

---

---

5-1 Prior to County consideration of future project-specific entitlements for individual projects within the project site, each project developer shall prepare a project-specific construction emissions management plan. The construction emissions management plan shall address all phases of construction and shall be prepared by an air quality consultant deemed qualified by the County. At minimum, the construction management plan shall include a dust control plan consistent with the San Joaquin Valley Air Pollution Control District (air district) Regulation VIII, in addition to the following items:

1. Quantification of project-specific construction emissions and comparison to air district thresholds;
2. Identification of demonstrable emissions reduction measures that will be implemented in conformance with air district Rule 9510 and Regulation VIII for the reduction of particulate matter and ozone precursors during construction. Emissions reductions measures shall include, but not be limited to, all or a combination of the following measures:
  - a. Utilize the cleanest available off-road construction equipment, including the latest Tier diesel engines on heavy equipment with engines greater than 25 horsepower;
  - b. Utilize alternative fuels and all off-road vehicles and construction equipment less than 25 horsepower;
  - c. Electrify construction sites; and
  - d. Any other construction emissions reductions measures that demonstrably reduce construction PM and NOx emissions.

3. The construction management plan shall be submitted to the County of Merced Community and Economic Development Director or his/her designate for review and approval;
4. Approved construction emissions measures shall be included on all permits, construction plans and bid documents; and
5. The approved construction management plan shall be implemented by the project contractor.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

**Monitoring Notes:**

---



---



---

5-2 Prior to County consideration of future project-specific entitlements for individual projects within the project site, each project developer shall prepare a criteria pollutant emissions reduction plan. The plans shall be prepared by a qualified air quality consultant and shall include measures that demonstrably reduce operational NO<sub>x</sub> and PM<sub>10</sub> emissions consistent with the San Joaquin Valley Air Pollution Control District Rule 9510 emissions reductions performance thresholds for operational NO<sub>x</sub> (33 Percent) and PM<sub>10</sub> (50 percent).

The criteria air pollutant emissions reduction plan shall be submitted to the County of Merced Community and Economic Development Director or his/her designate for review and approval; the approved emissions reduction measures shall be included on all permits, construction plans and bid documents.

The approved criteria air pollutant emissions reduction plan shall be implemented by the project contractor.

*Party Responsible for Implementation: Applicant/Developer/Contractor*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

## Monitoring Notes:

---

---

---

5-3 Prior to County consideration of future project-specific entitlements for development within the project site, each project developer shall prepare a project-specific construction health risk assessment. The health risk assessment shall be prepared by an air quality consultant qualified to conduct health risk assessments consistent with the San Joaquin Valley Air Pollution Control District guidance. The health risk assessment shall be submitted to the County of Merced Community and Economic Development Director or his/her designate for review and approval.

If the assessment results find that exposures to construction emissions would not exceed air district standards, no mitigation is required.

If the assessment identifies that exposures would exceed the air district standards, the developer shall prepare a Construction Emissions Reduction Plan that identifies demonstrated emissions reduction measures to reduce emissions and associated health risks below the standards. The Construction Emissions Reduction Plan shall be submitted to the County of Merced Community and Economic Development Director for review and approval. The plan shall include one or a combination of the following measures and shall be implemented by the project contractor during all phases of construction:

- a. Off-road equipment (more than 25 horsepower) and on on-road haul trucks to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) shall achieve appropriate project wide fleet-average NO<sub>x</sub> and PM<sub>10</sub>/PM<sub>2.5</sub> reductions, such that emissions do not exceed SJVAPCD significance thresholds. Acceptable options for reducing emissions include the use of late model engines (e.g., engines meeting U.S. EPA Tier 4 standards), low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- b. Provide line power during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.
- c. All on-road HDDT heavy-duty trucks with a gross vehicle weight rating of 33,000 pounds or greater used at the project site (such as haul trucks, water trucks, dump trucks concrete trucks) shall be model year 2010 or newer.
- d. Phase construction activities to reduce daily emissions.



installing electric vehicle charging stations, electrifying school buses, or planting local urban forests.

If the GHG emissions reductions from on-site measures and/or investments in off-site reduction programs are insufficient to reduce project emissions to below the threshold of significance, the applicant may secure the reduction balance by purchasing and retiring carbon offset credits. The carbon offset credits shall meet the following performance standards:

- Carbon offset credits shall be issued by a recognized, reputable and accredited registry that mandates the use of established protocols for quantifying and issuing the offset credits. Credits issued based on protocols approved by the California Air Resources Board should be prioritized. Examples of such registries include the Climate Action Reserve, American Carbon Registry, and Vierra.
- In order of priority, the carbon offset credits should be obtained from projects developed in local vicinity/region, the state, national, or international projects. Priority is on offset credits available through registries approved by CARB. Credits from projects developed internationally should not be used unless the applicant demonstrates with substantial evidence that sufficient carbon offsets from projects in vicinity/region, state, or U.S. are unavailable. International offsets must be quantified and issued using established protocols that are recognized in the United States and that are issued by recognized, reputable and accredited registries.
- All carbon offset credits must meet the criteria of being real, quantifiable, permanent, verifiable, enforceable, and additional, consistent with the standards set forth in Health and Safety Code section 38562, subdivisions (d)(1) and (d)(2).

Individual project developers shall submit their respective GHG Reduction Plans for review and approval of the Community and Economic Development Department Director/Director's Designee prior to approval of project-specific entitlements. Implementation of the GHG reduction measures shall be made a condition of approval. If carbon offsets are proposed, applicants shall provide an executed contract or other certification to the Community and Economic Development Department Director/Director's Designee that the requisite carbon offset credits have been purchased.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*



**Monitoring Notes:**

---

---

---

7-2 If the County has adopted a qualified climate action plan prior to approval of any individual future project(s), conformance of individual projects with the applicable GHG reduction measures included in the climate action plan would serve as mitigation for GHG impacts of those projects. GHG Reduction Plans as identified in mitigation measure 7-1 would not be required. To ensure conformance with the climate action plan, individual project developers shall demonstrate that all applicable GHG reduction measures included in the climate plan have been incorporated into their respective project designs. Operational measures that are not physical project design features shall be required as conditions of project approval. Conformance with the climate action plan shall be verified by the Community and Economic Development Department Director/Director’s Designee prior to approval of individual future projects.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director’s Designee*

**Monitoring Notes:**

---

---

---

9-1 The applicant shall prepare an acoustical analysis to define the site-specific potential impacts of stationary commercial noise sources. The potential for these noise sources uses to exceed applicable County noise standards at adjacent noise sensitive uses shall be identified. If significant impacts are identified, mitigation measures shall be identified to reduce impacts to less than significant by ensuring compliance with the County noise standards. Mitigation could include, but may not be limited to: site design to separate commercial uses from adjacent sensitive residential uses, building setbacks, noise equipment enclosures, etc. The acoustical analysis shall be subject to review and approval of the Community and Economic Development Department Director/Director’s Designee prior to approval of entitlements for future site-specific commercial projects.

*Party Responsible for Implementation:*      *Applicant/Developer*

*Party Responsible for Monitoring:*      *Merced County Community and Economic Development  
Department/Directors Designee*

**Monitoring Notes:**

---

---

---

9-2      Outdoor activity areas of residential units proposed within 60 feet of the centerline of Shanks Road shall be located outside the 65 dB contour along Shanks Road as identified in the *Acoustical Analysis – Bradbury Ranch, Merced County/Delhi California* (WJV Acoustics 2022) or by shielding such activity areas from traffic noise along Shanks Road to the satisfaction of the Community and Economic Development Department Director/Director’s Designee. The 65 dB contour is located 60 feet from the centerline of Shanks Road. Implementation of this mitigation shall be verified by the Community and Economic Development Department Director/Director’s Designee prior to approval of building permits for such residential units.

*Party Responsible for Implementation:*      *Applicant/Developer*

*Party Responsible for Monitoring:*      *Merced County Community and Economic Development  
Department/Directors Designee*

**Monitoring Notes:**

---

---

---

9-3      Developers of future residential projects located wholly or partially within the 65 dB Ldn noise contour for combined State Route 99 and UPRR train noise shall prepare and implement a detailed noise mitigation plan which defines the combination of noise mitigation options (soundwalls, setbacks and site design measures) to be employed to reduce noise exposure levels at outdoor activity areas to less than 65 dB Ldn. Locations and specifications for soundwalls shall be shown on tentative maps or other project-specific development plans. The noise mitigation plan and project plans shall be subject to review and approval of the Community and Economic Development Department

Director/Director's Designee prior to approval of entitlements for future residential projects.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Merced County Community and Economic Development Department/Directors Designee*

**Monitoring Notes:**

---

---

---

**Step 2 - Prior to Issuance of Building Permits for Future Individual Projects**

- 5-4 Developers of individual residential projects or other projects that include sensitive receptors shall reduce cancer risk exposures from toxic air contaminants generated by traffic on State Highway 99 and train traffic on the UPRR using the following methods:
- a. MERV13 filtration systems shall be installed in all residential buildings or other buildings housing sensitive receptors that are planned within the 20 cases per million contour; with the possible exception of sensitive receptors identified in item “b”;
  - b. MERV16 filtration systems shall be installed on all residential buildings or other buildings housing sensitive receptors that are planned in areas where increased cancer risk is not reduced to less than 20 cases per million with incorporation of MERV13 filtration systems; and
  - c. No residential development or other land uses that include sensitive receptors shall be permitted where use of MERV13 and MERV16 filtration systems does not reduce cancer risk to less than 20 cases per million.

Prior to issuance of building permits for future individual residential projects or other use types that include sensitive receptors, each developer shall identify the buildings required to be outfitted with MERV13- or MERV16-rated filtration systems on a unit-by-unit basis, with individual air intake and exhaust ducts ventilating each unit separately, or through a centralized building ventilation system, as needed. Each developer shall provide evidence from an air quality specialist qualified in dispersion modeling that exposures to TACs are reduced by 80 and 90 percent such that cancer risk is reduced to less than 20 cases per million. The evidence shall be verified by the Community and Economic Development Department Director/Director's Designee prior to issuance of building permits.

*Party Responsible for Implementation:*      *Applicant/Developer*

*Party Responsible for Monitoring:*      *Community and Economic Development Department*  
*Director/Director's Designee*

**Monitoring Notes:**

---

---

---

**Step 3 – Prior to Ground Disturbing Activities for Future Individual Projects**

6-2a      Prior to ground disturbing activities for future individual projects within the project site or the off-site improvement areas, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of special-status species potentially occurring in the project vicinity, including, but not limited to, American badger, San Joaquin kit fox, coast horned lizard, Northern California legless lizard, burrowing owl, and nesting birds and raptors. Their habitats, general measures that are being implemented to conserve species as they relate to the project, and the boundaries within which construction activities will occur will be explained. Informational handouts with photographs clearly illustrating the species' appearances shall be used in the training session. All new construction personnel shall undergo this mandatory environmental awareness training.

The qualified biologist will train biological monitors selected from the construction crew by the construction contractor (typically the project foreman). Before the start of work each day, the monitor will check for animals under any equipment such as vehicles and stored pipes within active construction zones. The monitor will also check all excavated steep-walled holes or trenches greater than one foot deep for trapped animals. If a special-status species is observed within an active construction zone, the qualified biologist will be notified immediately and all work within 50 feet of the individual will be halted and all equipment turned off until the individual has left the construction area.

Individual project developers shall submit evidence of completion of this training to the Merced County Community and Economic Development Department prior to initiation of ground disturbing activities.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

**Monitoring Notes:**

---

---

---

6-2b Not more than 14 days prior to the commencement of ground-disturbing activities, a qualified wildlife biologist shall conduct surveys of the grassland habitat on the project site or the off-site improvement areas to identify any potential American badger burrows/dens. If the survey results are negative (i.e., no badger dens observed), a letter report confirming absence will be prepared and submitted to the Merced County Community and Economic Development Department and no further mitigation is required.

If the results are positive (badger dens are observed), the qualified biologist shall determine if the dens are active by installing a game camera for 3 days and 3 nights to determine if the den is in use.

- a) If the biologist determines that a den may be active, coordination with the CDFW shall be undertaken to develop a suitable strategy to avoid impacts to American badger. The strategy may include the following: the biologist shall install a one-way door in the den opening and continue use of the game camera. Once the camera captures the individual exiting the one-way door, the den can be excavated with hand tools to prevent badgers from reusing them. If the biologist determines that the den is a maternity den, construction activities shall be delayed during the maternity season (February to August), or until the badgers leave the den on their own accord or the biologist determines that the den is no longer in use.
- b) If the game camera does not capture an individual entering/exiting the den, the den can be excavated with hand tools to prevent badgers from reusing them.

After dens have been excavated and the absence of American badger confirmed, a letter report will be prepared and submitted to the Merced County Community and Economic Development Department.

Party Responsible for Implementation: Applicant/Developer

Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee

**Monitoring Notes:**

---

---

---

6-3 The U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011) shall be implemented prior to initiation of and during any construction activity on the project site or the off-site improvement areas to avoid unintended take of individual San Joaquin kit foxes.

Preconstruction/pre-activity surveys for San Joaquin kit fox shall be conducted no less than 30 days prior to the beginning of ground disturbance and/or construction activities or any project activity that may impact San Joaquin kit fox. The surveys shall include all work areas and a minimum 200-foot buffer of the project site or off-site improvement areas. The preconstruction surveys shall identify kit fox habitat features on the project site, evaluate use by kit fox and, if possible, assess the potential impacts of the proposed activity. The status of all dens shall be determined and mapped.

If a natal/pupping den is discovered within the project area or within 200 feet of the project boundary or off-site improvement areas, the applicant shall consult with the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service to establish an appropriate avoidance buffer. The avoidance buffer shall be maintained until such time as the burrow is no longer active and/or an incidental take permit is determined to be required and is obtained.

In addition, the following measures shall be observed:

- a. Project-related vehicles shall observe a 20-mph speed limit in all project areas; this is particularly important at night when kit foxes are most active. To the extent possible, night-time construction shall be minimized. Off-road traffic outside of designated project area shall be prohibited.
- b. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of the project, all excavated, steep-walled holes or trenches more than two feet deep shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled,

they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the procedures under number 11 of the Construction and Operational Requirements in the Standardized Recommendations must be followed.

- c. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipe becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the U.S. Fish and Wildlife Service has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity, until the fox has escaped.
- d. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from a construction or project site.
- e. No firearms shall be allowed on the project site during construction activities.
- f. To prevent harassment, mortality of kit foxes or destruction of dens by dogs or cats, no pets shall be permitted on site during construction activities.
- g. Use of rodenticides and herbicides on the project site during construction shall be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project-related restrictions deemed necessary by the U.S. Fish and Wildlife Service. If rodent control must be conducted, zinc phosphide shall be used because of proven lower risk to kit fox.
- h. In the case of trapped animals, escape ramps or structures shall be installed immediately to allow the animal(s) to escape.
- i. Any contractor, employee, or agency personnel who inadvertently kills or injures a San Joaquin kit fox shall immediately report the incident to the Merced County Community and Economic Development Department, who will contact the CDFW and USFWS as needed.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

**Monitoring Notes:**

---

---

---

6-4 Approximately 15 days prior to tree removal, building demolition, or other construction activities, developers of individual projects within the project site or off-site improvement areas shall retain a qualified biologist to conduct a habitat assessment for bats and potential roosting sites in buildings and trees to be removed, in buildings and trees within 50 feet of the development footprint, and surrounding structures situated within 50 feet of disturbance activities by the project. Bats potentially roosting on the exteriors of buildings on the project site may be disturbed by construction activities. Bats that roost in buildings are usually in structural voids, the spaces between the exterior and interior envelopes of a building. Bats enter voids through openings on the exterior of buildings. A colony may remain unnoticed unless someone sees, hears, or smells them.

In the event that construction activities are suspended for 15 consecutive days or longer, including the time period between development activities at each respective lot or parcel, these surveys shall be repeated. These surveys shall include a visual inspection of potential roosting features (bats need not be present) and a search for presence of guano within the project site, construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. Assumptions can be made on what species is present due to observed visual characteristics along with habitat use, or the bats can be identified to the species level with the use of a bat echolocation detector such as an “Anabat” unit. Potential roosting features found during the survey shall be flagged or marked. Locations off the site to which access is not available may be surveyed from within the site or from public areas.

If no roosting sites or bats are found, a letter report confirming absence shall be submitted by the biologist to the Merced County Community and Economic Development Department and no further mitigation is required.

If bats or roosting sites are found, a letter report and supplemental documents shall be provided by the biologist to the Merced County Community and Economic



Development Department prior to ground disturbance activities and the following monitoring, exclusion, and habitat replacement measures shall be implemented:

- a. If bats are found roosting outside of the nursery season (May 1 through October 1), they shall be evicted as described under (b) below. If bats are found roosting during the nursery season, they shall be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. If the roost is determined to not be a maternal roost, then the bats shall be evicted as described under (b) below. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone (or different size if determined in consultation with the California Department of Fish and Wildlife) shall be established around the roosting site within which no construction activities including tree removal or structure disturbance shall occur until after the nursery season.
- b. If a non-breeding bat hibernaculum is found in a tree or snag scheduled for removal or on any structures within 50 feet of project disturbance activities, the individuals shall be safely evicted, under the direction of a qualified bat biologist. If pre-construction surveys determine that there are bats present in any trees or structures to be removed, exclusion structures (e.g., one-way doors or similar methods) shall be installed by a qualified biologist. The exclusion structures shall not be placed until the time of year in which young are able to fly, outside of the nursery season. Information on placement of exclusion structures shall be provided to the CDFW prior to construction. If needed, other removal methods could include: carefully opening the roosting area in a tree or snag by hand to expose the cavity and opening doors/windows on structures, or creating openings in walls to allow light into the structures. Removal of any trees or snags and disturbance within 50 feet of any structures shall be conducted no earlier than the following day (i.e., at least one night shall be provided between initial roost eviction disturbance and tree removal/disturbance activities). This action will allow bats to leave during dark hours, which increases their chance of finding new roosts with a minimum of potential predation.

*Party Responsible for Implementation:*      *Applicant/Developer*

*Party Responsible for Monitoring:*                 *Community and Economic Development Department*  
   *Director/Director's Designee*

**Monitoring Notes:**

---

---

---

6-5 Individual project developers will retain a biologist qualified in herpetology to conduct preconstruction surveys for coast horned lizard and Northern California legless lizard. Preconstruction surveys will be conducted within impact areas at the project site or off-site improvement areas no more than 48 hours prior to disturbance of any suitable habitat for these species as determined by the qualified biologist. Surveys will utilize hand search methods within impact areas where these species are expected to be found (i.e., under shrubs, other vegetation, or debris on sandy soils). Any individuals located during the surveys will be safely relocated to suitable habitat outside of the impact areas.

In coordination with the CDFW, as needed, the qualified biologist will be at the project site to recover any coast horned lizards or Northern California legless lizards that may be excavated/unearthed during initial ground disturbance and vegetation removal activities. If the animals are in good health, they will be immediately relocated to a designated release site outside of the work area. If they are injured, the animals will be released to a CDFW-approved rehabilitation specialist until they are in a condition to be released into the designated release site.

*Party Responsible for Implementation:        Applicant/Developer*

*Party Responsible for Monitoring:            Community and Economic Development Department  
Director/Director's Designee*

**Monitoring Notes:**

---

---

---

6-6 To avoid/minimize impacts to burrowing owls potentially occurring within the project site or off-site improvement areas, individual project developers shall retain a biologist qualified in ornithology to conduct surveys for burrowing owl. The approved biologist shall conduct a two-visit (i.e., morning and evening) presence/absence survey at areas of suitable habitat on and adjacent to the project site boundary no less than 14 days prior to the start of construction or ground disturbance activities. Surveys shall be conducted according to the methods for take avoidance described in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium 1993) and the Staff Report on Burrowing Owl Mitigation (CDFW 2012). If no burrowing owls are found, a letter report confirming absence will be prepared and submitted to the Merced County Community and Economic Development Department and no further mitigation is required.

Because burrowing owls occupy habitat year-round, seasonal no-disturbance buffers, as outlined in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium 1993) and the Staff Report on Burrowing Owl Mitigation (CDFW 2012), shall be in place around occupied habitat prior to and during any ground disturbance activities. The following table includes buffer areas based on the time of year and level of disturbance (CDFW 2012), unless a qualified biologist approved by the CDFW verifies through non-invasive measures that either: 1) birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance Buffers (meters)		
		Low	Med	High
Nesting Sites	April 1 – Aug 15	200 m	500 m	500 m
Nesting Sites	Aug 16 – Oct 15	200 m	200 m	500 m
Nesting Sites	Oct 16 – Mar 31	50 m	100 m	500 m

If burrowing owl is found and avoidance is not possible, burrow exclusion may be conducted by qualified biologists only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. Occupied burrows shall be replaced with artificial burrows at a ratio of one collapsed burrow to one constructed artificial burrow (1:1). Evicted burrowing owls may attempt to colonize or re-colonize an area that would be impacted, thus ongoing surveillance during project activities shall be conducted at a rate sufficient to detect burrowing owls if they return.

If surveys locate occupied burrows in or near construction areas, consultation with the CDFW shall occur to interpret survey results and develop a project-specific avoidance and minimization approach. Once the absence of burrowing owl has been confirmed, a letter report will be prepared and submitted to the Merced County Community and Economic Development Department.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

**Monitoring Notes:**

---



---

---

6-7a The following measures shall be implemented by individual project developers to avoid loss of or harm to Swainson's hawk and other raptors:

- a. Tree and vegetation removal shall be completed during the nonbreeding season for raptors (September 16–January 31).
- b. To avoid, minimize, and mitigate potential impacts on Swainson's hawk and other raptors nesting on or adjacent to the project site or off-site improvement areas, retain a qualified biologist to conduct preconstruction surveys and identify active nests on and within 0.5 mile of the project site for construction activities conducted during the breeding season (February 1–September 15). The surveys shall be conducted before the initiation of ground disturbing activities and no less than 14 days and no more than 30 days before the beginning of construction. Guidelines, provided in *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (Swainson's Hawk Technical Advisory Committee 2000) or updated, current guidance, shall be followed for surveys for Swainson's hawk. If no nests are found, a report documenting the results of the survey shall be submitted to the Merced County Community and Economic Development Department and no further mitigation will be required.
- c. Impacts on nesting Swainson's hawks and other raptors shall be avoided by establishing appropriate buffers around active nest sites identified during preconstruction raptor surveys. No project activity shall commence within the buffer areas until a qualified biologist has determined, in coordination with California Department of Fish and Wildlife, the young have fledged, the nest is no longer active, or reducing the buffer would not result in nest abandonment. California Department of Fish and Wildlife guidelines recommend implementation of 0.25- or 0.5-mile-wide buffers for Swainson's hawk nests, but the size of the buffer may be decreased if a qualified biologist, in consultation with California Department of Fish and Wildlife, determine that such an adjustment would not be likely to adversely affect the nest.

The appropriate no-disturbance buffer for other raptor nests (i.e., species other than Swainson's hawk) shall be determined by a qualified biologist based on site-specific conditions, the species of nesting bird, nature of the project activity, visibility of the disturbance from the nest site, and other relevant circumstances.

Monitoring of all active raptor nests by a qualified biologist during construction activities will be required if the activity has potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases. The

exclusionary buffer will remain in place until the chicks have fledged or as otherwise determined appropriate by a qualified biologist.

- 6-7b If the preconstruction surveys, a review of the California Natural Diversity Database, or other survey effort indicate there is an active nest within ten miles of the project site, the following measures shall be implemented to mitigate for the loss of Swainson’s hawk foraging habitat:
- a. Prior to ground-disturbing activities, suitable Swainson’s hawk foraging habitat shall be preserved to ensure replacement of foraging habitat lost as a result of the project, as determined by a qualified biologist, in consultation with California Department of Fish and Wildlife.
  - b. The habitat value shall be based on Swainson’s hawk nesting distribution and an assessment of habitat quality, availability, and use within Merced County. The mitigation ratio shall be consistent with the guidelines included in the Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks (*Buteo swainsoni*) in the Central Valley of California (CDFG 1994). These guidelines specify that the mitigation ratio shall be 1:1 if there is an active nest within one mile of the project site, 0.75:1 if there is an active nest within five miles but greater than one mile away, and 0.5:1 if there is an active nest within 10 miles but greater than five miles away. If there is an active nest within one mile of the project site, the mitigation ratio can be reduced to 0.5:1 if all of the mitigation land can be actively managed for prey production. Such mitigation shall be accomplished through either the transfer of fee title or perpetual conservation easement. The mitigation land shall be located within the known foraging area within Merced County.

*Party Responsible for Implementation:* Applicant/Developer

*Party Responsible for Monitoring:* Community and Economic Development Department  
Director/Director’s Designee

**Monitoring Notes:**

---

---

---

- 6-8 To avoid impacts to nesting birds during the nesting season (February 1 through September 15), construction activities within or adjacent to the project site boundary or off-site improvement areas that include any vegetation removal or ground disturbance (such as grading or grubbing) shall be conducted between September 16 and January 31, which is outside of the bird nesting season. If construction activities must commence

during the bird nesting season, then a qualified biologist shall conduct a pre-construction survey for nesting birds to ensure that no nests would be disturbed during project construction.

- a. Two surveys for active nests of such birds shall occur within 10 days prior to start of construction, with the second survey conducted within 48 hours prior to start of construction. Appropriate minimum survey radius surrounding the work area is typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities. Individual project developers shall submit evidence of completion of the preconstruction survey to the Merced County Community and Economic Development Department prior to initiation of ground disturbing activities.
- b. If the qualified biologist documents active nests within individual project site boundaries, an appropriate buffer between each nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize “normal” bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active. This measure shall be implemented by the individual project developers prior to initiation of ground disturbing activities.
- c. A survey for suitable habitat for tricolored blackbird shall be conducted by a qualified wildlife biologist with knowledge of tricolored blackbird natural history and behaviors prior to the start of ground-disturbing activities. If suitable habitat is present, a qualified wildlife biologist shall conduct focused surveys for nesting tricolored blackbird no more than 10 days prior to the start of ground-disturbing activities. If an active tricolored blackbird nesting colony is found during pre-construction surveys, a minimum 300-foot no-disturbance buffer shall be established around the colony in accordance with the California Department of Fish and Wildlife’s “Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015.” The buffer shall remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. If a 300-foot no-disturbance buffer is not possible due to the closeness of the colony to the project, consultation with the California Department of Fish and Wildlife is warranted to discuss how to implement the project and avoid take, or if avoidance is not

feasible, to acquire an Incidental Take Permit, pursuant to Fish and Game Code section 2081, prior to any ground-disturbing activities.

*Party Responsible for Implementation:*      *Applicant/Developer*

*Party Responsible for Monitoring:*      *Community and Economic Development Department*  
*Director/Director's Designee*

**Monitoring Notes:**

---

---

---

**Step 4 – During Construction**

OS 5.2.c    If human remains are discovered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made the necessary findings as to their origin and disposition pursuant to Public Resource code Section 5097.98. If the Coroner determines that no investigation of the cause of death is required and if the remains are of Native American origin, the Coroner will notify the Native American Heritage Commission, which in turn will inform a most likely descendent. The descendent will then recommended to the landowner appropriate disposition of the remains and any grave goods.

*Note: This mitigation measure is from the Delhi Community Plan EIR and is applicable to the proposed project.*

*Party Responsible for Implementation:*      *Applicant/Developer*

*Party Responsible for Monitoring:*      *Community and Economic Development Department*  
*Director/Director's Designee*

**Monitoring Notes:**

---

---

---

## Step 5 - Prior to Approval of Covenants, Codes and Restrictions; Development Agreements, or Other Development Maintenance Agreements for Future Individual Projects

5-5 Each project developer required to implement mitigation measure 5-4 shall prepare and implement an ongoing maintenance plan for buildings required to be fitted with air filtration systems per mitigation measures 5-4. The maintenance plan shall be included in the covenants, codes, and restrictions for all such projects; development agreement; or other mechanism deemed appropriate by the County. The maintenance agreement shall: 1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, 2) include assurance that new owners or tenants are provided information on the ventilation system, and 3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed. The ongoing maintenance plan is subject to the review and approval of the Community and Economic Development Department Director.

*Party Responsible for Implementation: Applicant/Developer*

*Party Responsible for Monitoring: Community and Economic Development Department  
Director/Director's Designee*

### Monitoring Notes:

---

---

---