

**Mitigation Monitoring and Reporting Program**  
**County File #CDLP22-02029**  
**Bay Point Multi-Family Residential Mixed-Use Project**

**2855-2867 Willow Pass Road**  
**Bay Point, CA 94565**

**September, 2023**

## SECTION 4: BIOLOGICAL RESOURCES

### Potentially Significant Impacts:

**Potential Impact (Burrowing Owl) BIO-1:** *The proposed project's construction activities could result in the destruction or abandonment of nests or wintering refugia of burrowing owl.*

**Potential Impact (Migratory Bird Nests) BIO-2:** *Development activities occurring during the nesting period for migratory birds, including site grading, soil excavation, and/or tree removal and vegetation pruning/removal poses a potential risk to nesting birds:*

### Mitigation Measure(s):

**Mitigation Measure BIO-1 - Pre-construction Burrowing Owl Survey:** Prior to the onset of project ground disturbances, including grading, vegetation removal, and/or mobilization of equipment, a qualified biologist shall conduct a pair of pre-construction surveys for burrowing owls within the site and within any potentially suitable location within 250 feet of the site where access is feasible. The first survey shall occur approximately 14 days prior to project initiation, and the second survey shall occur within approximately 48 hours of the start of project activities. If the site and immediate site vicinity are determined by the certified biologist to have no potentially suitable habitat for burrowing owls (i.e., suitable burrows or suitable debris piles that burrowing owls could use for habitat) during the first survey, then no follow-up survey shall be required. If the Project does not commence within 30 days following this survey, a repeat survey shall be needed to ensure site conditions have not changed with regard to burrowing owl habitat.

If burrowing owls are identified utilizing burrows within or near the site, a 250-foot buffer shall be established around the active burrows and the burrows shall be periodically monitored by the qualified biologist. No construction activities, including entrance by project personnel, can occur within the buffer until the biologist has confirmed that the burrows are no longer occupied. Once the biologist has confirmed that the burrowing owls have safely self-relocated (including that young of the nest—if any—have fledged), the buffer can be removed, and planned project activities within the buffer can commence.

**Mitigation Measure BIO-2:** Pre-construction for Migratory Bird Nests: If initial site disturbance activities, including tree removal, grading, and mobilization of project equipment

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and materials, are to commence during the breeding season (February 1 to August 31), a certified biologist shall conduct pre-construction surveys for nesting migratory birds onsite and within 250 feet of the construction footprint, including laydown areas and ingress and egress, where accessible. The survey shall occur within 14 days of the onset of ground disturbances if such disturbances are to commence during the nesting bird season. If site impacts will be phased such that impacts to some areas will occur more than 14 days after impacts to other areas, additional surveys shall be conducted such that all areas of the site are surveyed within 14 days of the direct implementation of impacts within those areas.

If an active bird nest is detected during these surveys, an appropriate construction-free buffer shall be established. Actual size of the buffer, which will be determined by the project biologist, would depend on the nesting species, topographical relationship of the nest to the project disturbance area, and the type of activity that would occur in the vicinity of the nest. The buffer shall be monitored periodically by the biologist to ensure compliance, and the buffer shall not be removed until the biologist has confirmed that nesting is complete and young of the nest have fledged.

Implementing Action:	COA
Timing of Verification:	Prior to ground disturbing activities.
Party Responsible for Verification:	Project proponent, CDD staff, consulting Biologist
Compliance Verification:	Review of Biologist's report or other verification provided to CDD staff

## SECTION 5: CULTURAL RESOURCES

### Potentially Significant Impacts:

**Potential Impact CUL-1:** Subsurface construction activities could potentially damage or destroy previously undiscovered historic and prehistoric resources.

### Mitigation Measure(s):

**Mitigation Measure CUL-1:** The following Mitigation Measures shall be implemented during project related ground disturbance, and shall be included on all construction plans:

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- a. *All construction personnel, including operators of equipment involved in grading, or trenching activities will be advised of the need to immediately stop work if they observe any indications of the presence of an unanticipated cultural resource discovery (e.g. wood, stone, foundations, and other structural remains; debris-filled wells or privies; deposits of wood, glass, ceramics). If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance activities, all work within 50 feet of the discovery shall be redirected and a qualified archaeologist, certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), shall be contacted to evaluate the finds and, if necessary, develop appropriate treatment measures in consultation with the County and other appropriate agencies. If the cultural resource is also a tribal cultural resource (TCR) the representative (or consulting) tribe(s) will also require notification and opportunity to consult on the findings.*

*If the deposits are not eligible, avoidance is not necessary. If eligible, deposits will need to be avoided by impacts or such impacts must be mitigated. Upon completion of the archaeological assessment, a report should be prepared documenting the methods, results, and recommendations. The report should be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.*

- b. *Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the land owner for treatment and disposition of the ancestor's remains. The land owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.*

Implementing Action:	COA
Timing of Verification:	Throughout ground disturbing activities
Party Responsible for Verification:	Project proponent, CDD staff

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Compliance Verification:	Review of construction drawings; or other verification provided to CDD staff
<b>SECTION 10: HYDROLOGY AND WATER QUALITY</b>	
<p><b>Potentially Significant Impacts:</b></p> <p><b><u>Potential Impact HYDRO-1:</u></b> <i>The project would increase stormwater outfall into existing inadequate downstream drainage infrastructure, which could result in flooding, substantial erosion, or polluted runoff.</i></p> <p><b><u>Potential Impact HYDRO-2:</u></b> <i>The project, including on-site detention described in <b>HYDRO-1</b>, may increase stormwater outfall into existing inadequate downstream drainage infrastructure, which could result in flooding, substantial erosion, or polluted runoff.</i></p>	
<p><b>Mitigation Measure(s):</b></p> <p><b><u>Mitigation Measure HYDRO-1:</u></b> <i>The implementation of a drainage plan to match post-construction flow rates with pre-construction flow rates through the use of an on-site stormwater detention system will ensure that the project does not increase the volume of stormwater outfall from the project into existing storm drainage infrastructure relative to present conditions. Prior to the issuance of a building or grading permit (whichever occurs first), the applicant shall submit a final drainage plan with hydrology and hydraulic calculations for the review and approval of the County Department of Public Works, Engineering Services Division.</i></p> <p><b><u>Mitigation Measure HYDRO-2:</u></b> <i>In the event that the on-site stormwater detention system described in Mitigation Measure <b>HYDRO-1</b> does not sufficiently mitigate downstream flows, the applicant shall be required to improve the downstream DA 48B to accept post construction flows. Prior to the issuance of a building or grading permit (whichever occurs first), the applicant shall submit a final drainage plan with hydrology and hydraulic calculations for the review and approval of the County Department of Public Works, Engineering Services Division.</i></p>	
Implementing Action:	COA
Timing of Verification:	Prior to the issuance of Building or Grading permits

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Party Responsible for Verification:	Project proponent, PW Staff, CDD staff
Compliance Verification:	Review of final drainage plan, hydrology and hydraulic calculations

## SECTION 13: NOISE

### Potentially Significant Impacts:

***Potential Impact NOI-1 – Temporary noise levels due to construction:*** During project construction of the future buildings, a temporary increase in ambient noise levels would occur, and there may be periods of time when there would be ground borne vibrations or loud noise from construction equipment, vehicles, and tools. The temporary activities during the construction phase of the project have the potential for generating noise levels in excess of standards described in the Noise Element of the County General Plan. Therefore, the applicant is required to implement the following noise mitigation measures throughout the construction phase to reduce impacts from ground borne vibrations and temporary increases in ambient noise levels to less than significant levels:

### Mitigation Measure(s):

***Mitigation Measure NOI-1a:*** All construction activities, including delivery of construction materials, shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below

*New Year's Day (State and Federal)*  
*Birthday of Martin Luther King, Jr. (State and Federal)*  
*Washington's Birthday (Federal)*  
*Lincoln's Birthday (State)*  
*President's Day (State)*  
*Cesar Chavez Day (State)*  
*Memorial Day (State and Federal)*  
*Juneteenth National Independence Holiday (Federal)*  
*Independence Day (State and Federal)*  
*Labor Day (State and Federal)*  
*Columbus Day (Federal)*  
*Veterans Day (State and Federal)*  
*Thanksgiving Day (State and Federal)*  
*Day after Thanksgiving (State)*  
*Christmas Day (State and Federal)*

***Mitigation Measure NOI-1b:*** Transportation of heavy equipment (e.g., graders, cranes, excavators, etc.) and trucks to and from the site shall be limited to weekdays between the

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*hours of 9:00 AM and 4:00 PM and prohibited on Federal and State holidays. This restriction does not apply to typical material and equipment delivery or grading activities.*

**Mitigation Measure NOI-1c:** *The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.*

**Mitigation Measure NOI-1d:** *The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of grading and construction activities.*

**Mitigation Measure NOI-1e:** *The applicant shall designate a construction noise coordinator who will be responsible for implementing the noise control measures and responding to complaints. This person's name and contact information shall be posted clearly on a sign at the project site and shall also be included in the notification to properties within 300 feet of the project site. The construction noise coordinator shall be available during all construction activities and shall maintain a log of complaints, which shall be available for review by County staff upon request.*

**Mitigation Measure NOI-1f:** *Prior to the issuance of building permits, a preconstruction meeting shall be held with the job inspectors, designated construction noise coordinator, and the general contractor/onsite manager in attendance. The purpose of the meeting is to confirm that all noise mitigation measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed and in place prior to beginning grading or construction activities. The applicant shall provide written confirmation to CDD staff verifying the time and date that the meeting took place and identifying those in attendance.*

Implementing Action:	COA
Timing of Verification:	Prior to CDD approval of construction documents
Party Responsible for Verification:	Project proponent, CDD staff
Compliance Verification:	Review of construction drawings; or other verification provided to CDD staff

## **SECTION 18: TRIBAL CULTURAL RESOURCES**

### **Potentially Significant Impacts:**

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**Potential Impact TCR-1:** *There is a possibility that ground-disturbing development activities could impact heretofore unknown tribal cultural resources.*

**Potential Impact TCR-2:** *There is a possibility that ground-disturbing development activities could impact heretofore unknown human remains of Native American Ancestry.*

**Mitigation Measure(s):**

***Mitigation Measure TCR-1: Treatment of Tribal Cultural Resources***

*If a pre-contact cultural resource is discovered during Project implementation, ground disturbing activities shall be suspended 60 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. A research design shall be developed by the archaeologist that shall include a plan to evaluate the resource for significance under CEQA criteria. Following the completion of evaluation efforts, all parties shall confer regarding the archaeological significance of the resource, its potential as a Tribal Cultural Resource (TCR), and avoidance (or other appropriate treatment) of the discovered resource.*

*Should any significant resource and/or TCR not be a candidate for avoidance or preservation in place, and the removal of the resource(s) is necessary to mitigate impacts, the research design shall include a comprehensive discussion of sampling strategies, resource processing, analysis, and reporting protocols/obligations. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal monitor representing the Tribe. All plans for analysis shall be reviewed and approved by the applicant and Tribe prior to implementation, and all removed material shall be temporarily curated on-site. All draft records/reports containing the significance and treatment findings and data recovery results shall be prepared by the archaeologist and submitted to the Lead Agency and Tribe for their review and comment. After approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and Tribe*

***Mitigation Measure TCR-2: Inadvertent Discoveries of Human Remains/Funerary Objects***

*In the event that any human remains are discovered within the Project area, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify the Tribe, the applicant/developer, and the Lead Agency. The Lead Agency and the applicant/developer shall then immediately contact the County Coroner regarding the*

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*discovery. If the Coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The NAHC-identified Most Likely Descendant (MLD), shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and funerary objects shall be treated and disposed of with appropriate dignity.*

*The MLD, Lead Agency, and landowner agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes. The MLD shall complete its inspection and make recommendations within forty-eight (48) hours of the site visit, as required by California Public Resources Code § 5097.98. Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances.*

*The applicant/developer/landowner shall accommodate on-site reburial in a location mutually agreed upon by the Parties. It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The coroner, parties, and Lead Agencies would be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).*

Implementing Action:	COA
Timing of Verification:	Prior to CDD approval of construction documents
Party Responsible for Verification:	Project proponent, CDD staff
Compliance Verification:	Review of construction drawings; Consultation with Tribal officials upon accidental discovery (if any)

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