3.2 Biological Resources

Section 3.2, Biological Resources, evaluates the impacts of the proposed project on biological resources and includes the following information:

- A description of the existing biological conditions within the project site.
- A discussion of the applicable federal, state, and local policies, ordinances, and regulations.
- An analysis of the project’s impacts to biological resources.
- A description of mitigation measures proposed to reduce significant impacts.
- A discussion of whether the project would contribute to cumulative impacts when considered with other proposed projects in the vicinity.

3.2.1 Introduction

This section describes and evaluates impacts to biological resources that would result from construction of the proposed project. The study area analyzed for the proposed project includes the 29.85-acre project site and a 250-foot buffer surrounding the project site. This section includes existing biological conditions within the project site and study area; applicable policies, ordinances, regulations; environmental impacts; and mitigation measures. The information included in this analysis is based on a review of existing available information conducted in February 2016 for the project site. This includes aerial and ground photographs of the project site, and relevant literature and database reviews, such as the California Natural Diversity Database and California Native Plant Society lists for the survey area and surrounding areas. As discussed in the Initial Study, provided in Appendix A of this Draft EIR, the proposed project would have no impact related to any special-status species, and no impact related to riparian habitat, sensitive vegetation communities, jurisdictional waters or wetlands, local policies and ordinances, or adopted conservation plans. Therefore, impacts related to special-status species, riparian habitats, sensitive vegetation communities, jurisdictional waters or wetlands, local policies and ordinances, and adopted conservation plans do not require any further analysis in this Draft EIR.

3.2.2 Environmental Setting

The existing environmental setting is described as it pertains to the study area, and the specific vegetation and wildlife will be noted for the project site. The survey area is located within an urban area of the City of Redondo Beach, and is entirely developed with commercial buildings and paved parking lots associated with the South Bay Galleria, an enclosed mall property. Commercial developments are located immediately north, east, and south of the survey area. Single-family residences and apartments are located to the east and west of the survey area. The topography surrounding the survey area is relatively flat. Vegetation is minimal on the project site and is found only sporadically in landscaped areas around the edges of the parking lots and near the storefronts. Ornamental plant and tree species, commonly planted in Southern California urban environments, occur in the landscaped areas of the project site. These ornamental tree species include: Mexican fan palm (Washingtonia robusta), jacaranda (Jacaranda mimosifolia), and camphor tree (Cinnamomum camphora). Because of the developed nature of the project site,
animal species are limited to common songbirds that thrive in urban environments, such as house finch (*Haemorhous mexicanus*), American crow (*Corvus brachyrhynchos*), and mourning dove (*Zenaida macroura*). Special-status plant and wildlife species are not found within the project site or survey area and are not expected to occur because of the lack of native habitat and existing disturbances.

### 3.2.3 Regulatory Framework

Federal, state, and local regulatory framework applicable to the biological resources present within the biological survey area are presented below.

#### Federal

**Migratory Bird Treaty Act**

The Migratory Bird Treaty Act (MBTA) (16 U.S. Code 703) prohibits “take” of migratory birds, including their occupied nests, eggs, and parts. “Take” is defined by the MBTA as “pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect” (50 Code of Federal Regulations [CFR] 10.12). The MBTA protects over 1,000 migratory bird species; species protected by the MBTA are listed in 50 CFR 10.13. Neither the MBTA nor its implementing regulations, found in 50 CFR 21, currently provide for the permitting of “incidental take” of migratory birds that may be killed or injured by otherwise lawful activities. When vegetation clearing or other activities with the potential to kill or injure migratory birds are scheduled to occur during the avian breeding season (generally February 1 through September 15), the U.S. Fish and Wildlife Service (USFWS) typically requires surveys to locate active nests in project areas prior to commencing the activities. If active nests are detected, avoidance buffers and nest monitoring may be required. Project activities may also be temporarily halted until migratory birds are no longer at risk of being killed or injured.

#### State

**California Fish and Game Code**

The California Fish and Game Code (CFGC) regulates the taking of birds, mammals, fish, amphibians, and reptiles, as well as natural resources such as wetlands and waters of the State. Section 3503 of the CFGC states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. Section 3503.5 of the CFGC states that it is unlawful to take, possess, or destroy any raptors (i.e., species in the orders Falconiformes and Strigiformes), including their nests or eggs. Typical violations of these codes include destruction of active nests resulting from removal of vegetation in which the nests are located. Violation of Section 3503.5 could also include failure of active raptor nests resulting from disturbance of nesting pairs by nearby project construction. These sections of the CFGC do not provide for the issuance of any type of incidental take permit. It is important to note that California Department of Fish and Wildlife (CDFW) proposed regulations in August 2015 to clarify key terms in Section 3503 and 3503.5. Finalization of these proposed regulations are pending.
3. Environmental Analysis

3.2 Biological Resources

Section 3513 of the CFGC protects California’s migratory birds by making it unlawful to take or possess birds that are designated by the MBTA as migratory nongame birds, except as allowed by federal rules and regulations promulgated pursuant to the MBTA.

3.2.4 Impacts and Mitigation Measures

Methodology

A direct impact would be a modification, disturbance, or destruction of biological resources that would result from project-related activities, such as the removal of a wetland. An indirect impact would be an impact to protected plant and wildlife species or habitat caused by project-related development that would indirectly affect the species or habitat, such as the introduction of invasive plant species or increased noise levels. Temporary impacts would be impacts that are considered to be reversible and temporary in nature, such as noise generated during construction. Permanent impacts are impacts that are considered to be irreversible. The proposed project was analyzed to determine if any impacts to biological resources would occur as a result of construction or operational activities on the project site, and if those impacts would be considered significant under the California Environmental Quality Act (CEQA) as defined in the Thresholds of Significance, described below.

Thresholds of Significance

Based on Appendix G of the State CEQA Guidelines, impacts to biological resources would be considered significant if the proposed project would:

- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (See Impact Bio-1.)

The proposed project would have a less than significant impact related to any special-status species, and no impact related to riparian habitat, sensitive vegetation communities, jurisdictional waters or wetlands, local policies and ordinances, and adopted conservation plans. Therefore, impacts related to special-status species, riparian habitats, sensitive vegetation communities, jurisdictional waters or wetlands, local policies and ordinances, and adopted conservation plans do not require any further analysis in this Draft EIR. Section 5.1, Effects Found Not to Be Significant, summarizes the environmental impacts that were determined in the Initial Study/Notice of Preparation and public review process not to pose potentially significant impacts.

Impacts and Mitigation

Impact BIO-1: The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

The landscaped trees and ornamental vegetation within the project site may provide suitable nesting habitat for avian species protected under the MBTA and CFGC. Disturbing or destroying active nests is a violation of the MBTA (16 U.S. Code 703 et seq.), and areas containing active bird nests are considered a wildlife nursery site. The project includes removal of the landscaped
vegetation, and if removal occurs during the nesting bird season (February 1 to August 31), the project has the potential to directly impact nesting birds. In addition, project construction activities during the nesting bird season have the potential to indirectly effect nesting birds within landscaped trees and ornamental vegetation within the 250-foot buffer surrounding the project site. While the temporary loss of nesting bird habitat during project construction would not be a significant permanent impact because birds could easily find similar nesting opportunities in the surrounding urban area, and could reestablish their territories following the completion of the proposed project, the potential take of an active nest is considered a significant impact.

Avian species that could build a nest on the project site include species known to occur in developed and urban settings such as common raven (*Corvus corax*), northern mockingbird (*Mimus polyglottos*), and mourning dove (*Zenaida macroura*). These are common species that typically occur in urban environments, and therefore are accustomed to a high level of human presence and noise associated with regular vehicle and pedestrian traffic within the South Bay Galleria. However, the temporary increase in noise from construction equipment would be significant when compared to the current ambient level of noise (see Section 3.9), and could cause a bird to abandon an active nest. The proposed project would also remove existing landscaping on the project site and replace it with new landscaping upon completion of the project; therefore, there would be destruction of suitable nesting habitat for birds. These would be significant impacts.

Subsequent to the construction phase of the project, operational activities will occur that will be similar to current conditions on the study area. These operational activities will not create a significant impact to avian species that may choose to nest on the study area after construction has been completed. Therefore, operational activities associated with the project will be less than significant.

**Mitigation Measure**

**Mitigation Measure MM BIO-1:** Nesting Bird Avoidance Measures. Impacts to nesting birds protected by the MBTA and California Fish and Game Code will be avoided through implementation of the following measures:

- If construction activities begin during the nesting bird season (February 1 to August 31), a preconstruction nesting bird survey shall be conducted prior to the onset of construction, a maximum of 7 days prior to the commencement of construction activities. The survey shall be conducted by a qualified City-approved biologist within all suitable nesting habitat located within the study area. If no nesting birds are found within the study area during the preconstruction survey, construction may be initiated without impacts to nesting birds. Additional nesting bird surveys shall be conducted within 7 days prior to removal of landscaping while the project is ongoing during the nesting season.

- If an active nest is observed during the nesting bird survey, the qualified City-approved biologist will determine a suitable buffer where no construction activities would occur. The distance will be determined by the qualified biologist based on the species of bird to ensure that no direct or indirect impacts would occur. Additionally,
the avian species that would nest in the study area are accustomed to urban environments and regular activities that occur within the South Bay Galleria; therefore, the buffer distance will be determined by the City-approved biologist based on the location of the nest in relation to construction and the intensity of the work, as well as the species’ sensitivity to disturbance. The City-approved biologist shall monitor the nesting activity during construction activity to verify that the buffer is adequately placed and to confirm that breeding is not compromised by project construction. On-site monitoring during construction may also be required as determined by the qualified biologist based on sensitivity of the species, intensity of the impact, and proximity to construction activities. The buffer shall remain in place while the nest is active.

- Construction-generated noise or any nighttime lighting that could impact the nest shall be directed away from active bird nests to prevent potential harassment and any incidental take of an active nest.

Residual Impacts

Impacts would be less than significant with incorporation of Mitigation Measure MM BIO-1.

3.2.5 Cumulative Impacts

As discussed in Section 5.1.3, Effects Found Not to Be Significant, the proposed project would not impact candidate, sensitive, or special-status species; a riparian community or other sensitive natural community; or a riparian habitat or federally protected wetlands. Moreover, the proposed project would not conflict with any local ordinances or habitat conservation plans. Therefore, the proposed project would not incrementally contribute to the aforementioned resources, and cumulative impacts to these resources from the proposed project would be less than significant.

As discussed in the project-specific analysis, the project site is developed and contains limited areas suitable to support biological resources. Fragmented landscaped areas that support ornamental plants and common songbirds protected by the MBTA and CFGC are located throughout the project site. Common songbirds could nest in the landscaping, which would be removed during the proposed project’s construction activities. While by nature, common species are common because of the ability to adapt to disturbances and thrive in altered habitats that are not suitable for other species, such as urban areas, construction activities would temporarily displace nesting birds. Other construction projects surrounding the study area may also temporarily displace nesting birds during construction activities, which could result in a significant cumulative impact, and the project’s contribution would be cumulatively considerable. However, implementation of Mitigation Measure MM BIO-1 would require the proposed project to comply with the MBTA and CFGC, which would reduce impacts to less than significant. Similarly, other projects in the project vicinity would be required to comply with the MBTA and CFGC, which would result in an impact that is less than cumulatively considerable after mitigation is incorporated.
Cumulative Mitigation Measures

Implementation of Mitigation Measure MM BIO-1 would reduce the project’s cumulatively considerable contribution to construction impacts to nesting birds to less than significant.

Cumulative Residual Impacts

With implementation of Mitigation Measure MM BIO-1, impacts associated with the removal of trees on nesting birds would be less than significant.

3.2.6 Significant Unavoidable Impacts

No significant and unavoidable biological impacts were identified for the proposed project.

3.2.7 References


California Natural Diversity Data Base (CNDDB). 2016. State of California Resources Agency, Natural Heritage Division, Department of Fish and Game. Data Base Record Search for Information on Threatened, Endangered, Rare, or Otherwise Sensitive Species and Communities.


U.S. Fish & Wildlife Service (USFWS). 2016. IPaC Trust Resources Report. Available at: https://ecos.fws.gov/ipac/