

## STAFF REPORT

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A2343

J. Holt

### GENERAL LEASE – PUBLIC AGENCY USE

#### APPLICANT:

Sacramento Area Flood Control Agency

#### PROPOSED LEASE:

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land within a portion of Assessor's Parcel Number 024-0081-019 and an unnumbered parcel west of Riverside Boulevard, Sacramento, Sacramento County.

##### *AUTHORIZED USE:*

Use, maintenance, and right-of-way for access and staging purposes associated with rehabilitation of the Sacramento River East Levee.

##### *LEASE TERM:*

5 years, beginning February 28, 2020.

##### *CONSIDERATION:*

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

#### *SPECIFIC LEASE PROVISIONS:*

- Lessee agrees to obtain necessary permits from all applicable regulatory agencies, prior to the proposed use.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies to ensure safe use of the lease premises.

#### STAFF ANALYSIS AND RECOMMENDATION:

##### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

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### **Public Trust and State's Best Interests Analysis:**

In November 2019, the Commission received a lease application from the Sacramento Area Flood Control Agency (SAFCA). The application proposes the use of two parcels of sovereign land, located adjacent to the Sacramento River East Levee. The subject land is referenced as a portion of Assessor's Parcel Number 024-0081-019 (Parcel 1), and an unnumbered parcel west of Riverside Boulevard (Parcel 2), in Sacramento County. SAFCA is requesting a General Lease – Public Agency Use; for use, maintenance, and right-of-way for access and staging purposes associated with rehabilitation of the Sacramento River East Levee.

The proposed lease will offer essential access and staging areas for levee rehabilitation work (not within the lease area), located immediately adjacent to the subject parcels. Parcel 1 contains an existing access gate which leads directly to the actual work area. Parcel 2 will provide a staging area for materials and equipment, needed for the adjacent levee repairs. The proposed use will support the American River Watershed Common Features, Water Resources Development Act of 2016 Project, which includes rehabilitation of the Sacramento River East Levee. Phase 1 of the rehabilitation project is scheduled to begin in spring of 2020. Subsequent phases of the rehabilitation project will be scheduled for future implementation, as permitting and contracting processes advance.

The levee rehabilitation project is coordinated by several interagency partners with an overarching goal of public safety. The key partners include but, are not limited to, SAFCA, the U.S. Army Corps of Engineers, and the California Department of Water Resources. These agencies are planning repairs and maintenance to the Sacramento River East Levee, which generally align with existing easement rights. For access to land in close proximity to the associated levee project, SAFCA is requesting short-term use of two sovereign parcels under the Commission's jurisdiction.

The proposed use will not have a significant impact on public access to sovereign land and Public Trust resources. The existing entry gate on Parcel 1 will be used by a licensed contractor, working at the direction of SAFCA and the U.S. Army Corps of Engineers. The open space of Parcel 2 will be used for staging of materials and equipment, in a non-hazardous and secure manner. In areas undergoing advanced rehabilitation, general access may be limited for public safety reasons. Once the rehabilitation plans are completed, the lease area and public access will be returned to its pre-rehabilitation state. The proposed lease term will allow for post-

## STAFF REPORT NO. 33 (CONT'D)

project inspection and restoration measures. Ultimately, the proposed lease will enhance outdoor recreation and use of Public Trust resources, provided by the Sacramento River and Chicory Bend Park.

The Environmental Impact Report (EIR) identified significant environmental impacts created by the Project, that are within the Commission's jurisdiction, in the following resource areas:

- Aesthetics and Visual Resources
- Air Quality
- Vegetation and Wildlife
- Climate Change
- Geological Resources
- Noise

Through the implementation of Mitigation Measures all but two resource areas with significant impacts will be mitigated to less than significant impacts. Aesthetics and Visual Resources and Air Quality impacts will be created that are significant and unavoidable; however, SAFCA found that there are no other feasible mitigation measures available to avoid or reduce the impact (see Exhibit D, attached).

According to SAFCA's Director of Engineering, "The Sacramento River East Levee Contract 1 (SREL) reduces the overall flood risk to the Sacramento metropolitan area (530,000 people). The purpose is to reduce an unacceptably high risk of flooding from levee failures. Constructing this [public] safety project in a highly urban environment is challenging as there are limited areas in which to construct the necessary improvements and adjacent areas available to support construction. Identifying construction staging areas that minimize impacts to the surrounding environment are almost non-existent but the project proponents were able to identify area owned by the [Commission] that would not require the removal of any trees, be above the ordinary highwater mark and could be returned to its preconstruction staging area condition at the end of the project. Another [Commission] property needs to be used strictly for access across the property to access the levee. This activity all occurs adjacent to the levee that is being improved" (Ghelfi, 2019).

The proposed lease is limited to a 5-year term and does not alienate the State's fee simple interest or grant the lessee exclusive rights to the lease premises, nor does it permanently impair any public rights. The proposed lease also requires consideration (public safety) to compensate the people of the State for the occupation of the public land involved; and requires the

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lessee to indemnify the State for any liability incurred as a result of lessee's activities thereon.

### **Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion affect both open coastal areas and inland waterways in California. The subject activities are located adjacent to the Sacramento River in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise  
Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events and could increase the Sacramento River's inundation levels within the lease area over the term of the lease. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates.

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Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The proposed subject activities are specifically to access and improve the Sacramento River East Levee, to support the broader purpose of reducing flood risk associated with the Sacramento River. If the levee is not improved, it would remain at heightened risk of failure from through-seepage, and much of Sacramento, including Interstate 5 and the California State Capitol, could be significantly damaged during a future flood event. Activities on State lands would be short-term and consist of access routes and staging areas for the Project; therefore, there are no facilities proposed on State lands that would be impacted by climate change.

Pursuant to the proposed lease, SAFCA acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

### **Conclusion:**

For all the reasons above, staff believes issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease and serves an important public benefit; and is therefore in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. An Environmental Impact Report (EIR) and Supplemental EIR, State Clearinghouse No. 2005072046, were prepared for this project by the Central Valley Flood Protection Board and certified on April 22, 2016, and November 22, 2019, respectively. Staff has reviewed such documents and Mitigation Monitoring Programs prepared

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pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

Findings and a Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15093, 15096) are contained in the attached Exhibit D.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Findings and Statement of Overriding Considerations

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that an EIR and Supplemental EIR, State Clearinghouse No. 2005072046, were prepared for this project by the Central Valley Flood Protection Board and certified on April 22, 2016, and November 22, 2019, respectively, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

Adopt the Findings and the Statement of Overriding Considerations, made in conformance with California Code of Regulations, title 14, sections 15091, 15093, and 15096, subdivision (h), as contained in the attached Exhibit D.

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**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that issuance of this lease will not substantially interfere with the Public Trust needs and values at this location, at this time and for the foreseeable term of the proposed lease; provides an important public benefit; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning February 28, 2020, for a term of 5 years, for the use and maintenance of two State-owned parcels, for right-of-way access and staging purposes associated with rehabilitation of the Sacramento River East Levee, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

**EXHIBIT A**

**A2343**

**LAND DESCRIPTION**

Two parcels of real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

**PARCEL 1**

Being a portion of the lands of State of California as said lands are described in that certain Deed recorded in Document # 199807080806, Official Records of Sacramento County, also being in projected Section 22, Township 8 North, Range 4 East, M.D.M, being more particularly described as follows:

**COMMENCING** at a 2-1/4" bronze disc stamped "California Division of Highways" as designated as 24-630 on the California Division of Highways Monument Map, District 3, County SAC, Route 5, Post Mile 18.6 to 21.8, dated July 1976, as shown on sheet 8 of 16; thence South 56°09'12" West 3823.54 feet to the southeasterly corner of said lands and being the **POINT OF BEGINNING**; thence from said point of beginning along the south line of said lands South 69°34'57" West 27.98 feet to a point on the easterly line of a levee easement being identified as "Deed 12865" on sheet 57 of that certain unrecorded record of survey prepared by State of California Department of Water Resources entitled "Record of Survey Maintenance Area 9" dated July 2015, a copy of which resides in the office of the Sacramento County Surveyor, said point being North 64°35'56" East 30.00 feet from a 3/4 inch iron pipe with cap stamped "CALIF DEPT WATER RES ST1U1" as shown on said unrecorded survey; thence along said easterly levee easement, North 21°50'11" West 81.32 feet to the beginning of a non-tangent curve, concave northerly, having a radius of 30.00 feet whose radius bears North 68°14'57" East; thence leaving the easterly line of said levee easement along said curve through a central angle of 88°40'00", an arc distance of 46.42 feet; thence South 20°25'03" East 52.00 feet to the **POINT OF BEGINNING**.

Containing 1,670 square feet (0.038 acres), more or less.

**PARCEL 2**

Being a portion of the lands of the State of California as said lands are described in that certain Boundary Line Agreement and Compromise Settlement Agreement recorded in Book 880429 of Official Records at Page 1986, Sacramento County Records, also being in the projected Section 27, Township 8 North, Range 4 East, M.D.M, being more particularly described as follows:

**COMMENCING** at a 3/4 inch iron pipe and aluminum cap stamped "LM 2.0 SR1317" as shown on sheet 53 of that certain unrecorded record of survey prepared by the State of



California Department of Water Resources titled "Record of Survey Maintenance Area 9", dated July 2015, a copy of which resides in the office of the Sacramento County Surveyor; thence from said point of commencement North 46°17'50" West 737.97 feet to the Southwest corner of the lands of Sacramento Area Flood Control Agency as said lands are described in that certain Deed recorded in Document No. 201803150701, Sacramento County Records and being the **POINT OF BEGINNING**; thence from said point of beginning along said South line of said Lands of Sacramento Area Flood Control Agency, South 88°48'32" East 211.73 feet to a point on the Agreed Boundary Line of said Boundary Line Agreement; thence along said Agreed Boundary Line South 45°53'03" East 327.32' to the Southwest corner of Parcel B of that certain Certificate of Compliance recorded in Book 881223 of Official records at Page 331, Sacramento County Records; thence along the westerly prolongation of the south line of said Parcel B South 87°42'28" West 254.50 feet to point on the west line of that certain Record of Survey recorded in Book 7 of Surveys, Map no. 30, Sacramento County Records; thence along said West line North 38°26'04" West 309.49 feet to the **POINT OF BEGINNING**.

Containing 55,403 square feet (1.272 acres), more or less.

The basis of bearings for this description is NAD 83, California Coordinate System (CCS83), Zone 2 (2007.00 epoch date) as shown on that certain record of survey of G.P.S. Static Survey filed for record in Book 92 of Surveys, Page 7, Sacramento County Records. All distances cited herein are grid values which are the basis for the areas shown hereon. To obtain ground values multiply the distances by 1.000032

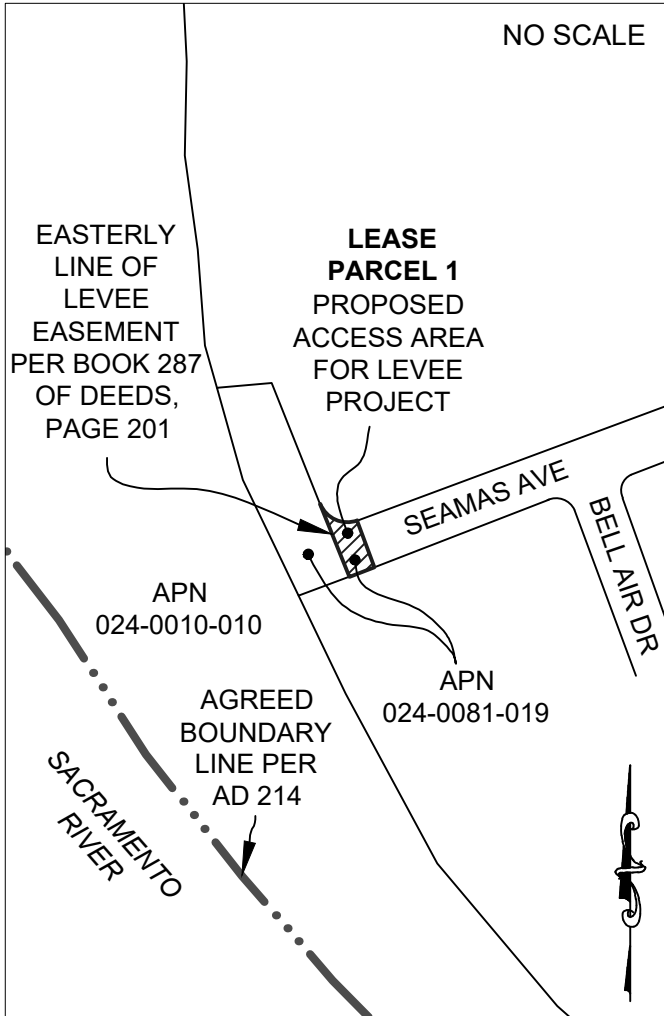
End of Description

  
Daniel J. Forgey, CA. LS No. 8303



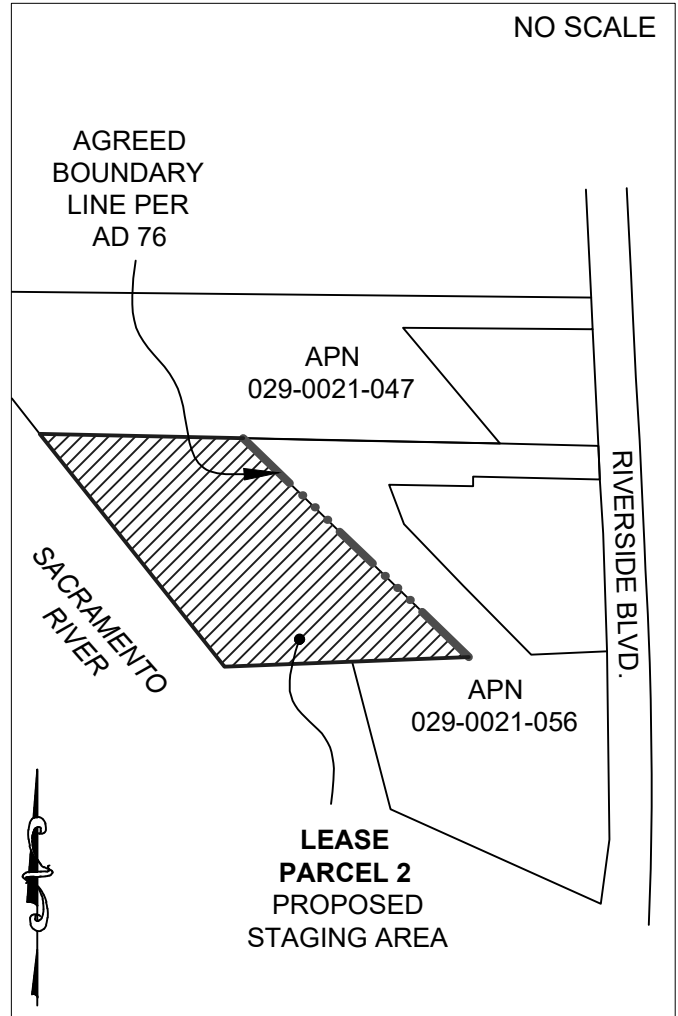
## SITE 1

NO SCALE



## SITE 2

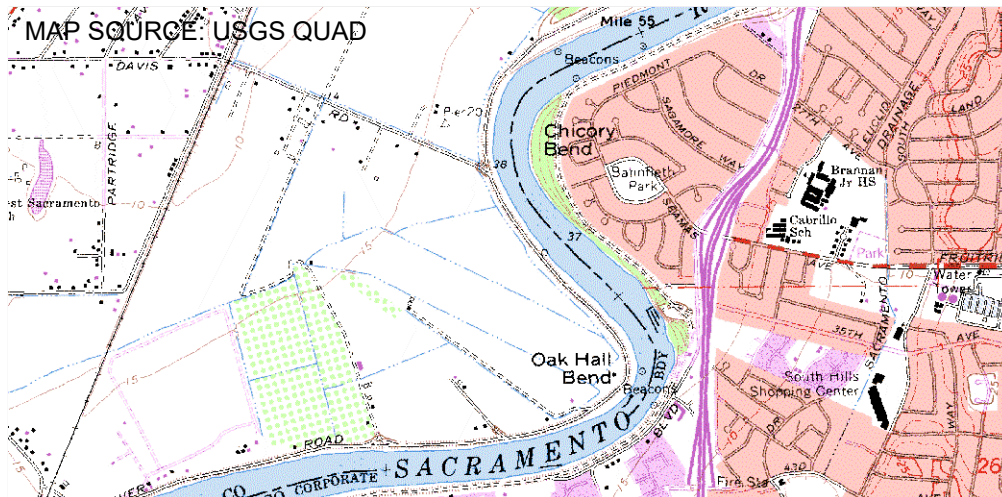
NO SCALE



## SACRAMENTO RIVER, CITY OF SACRAMENTO

NO SCALE

## LOCATION



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

## EXHIBIT B

A2343

SACRAMENTO AREA FLOOD  
CONTROL AGENCY  
APN 024-0081-019  
GENERAL LEASE -  
PUBLIC AGENCY USE  
SACRAMENTO COUNTY



JWP 1/08/20

**EXHIBIT C**  
**CALIFORNIA STATE LANDS COMMISSION**  
**MITIGATION MONITORING PROGRAM**

**AMERICAN RIVER WATERSHED COMMON FEATURES, WATER RESOURCES  
DEVELOPMENT ACT OF 2016 PROJECT, SACRAMENTO RIVER EAST LEVEE  
CONTRACT 1**

(A2343, State Clearinghouse No. 2005072046)

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The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River East Levee, Contract 1 (Project). The CEQA lead agency for the Project is the Central Valley Flood Protection Board.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:<sup>1</sup>

*In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.*

The lead agency certified an EIR, State Clearinghouse No. 2005072046 on April 22, 2016, and a Supplemental EIR on November 22, 2019, and adopted MMPs for both the whole of the Project, and the portion of the Project covered in the Supplemental EIR (see Exhibit C, Attachment C-1). The lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MMP prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C.

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<sup>1</sup> The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

**Table C-1. Project Impacts and Applicable Mitigation Measures**

<b>Potential Impact</b>	<b>Mitigation Measure (MM)<sup>2</sup></b>
<b>AIR-1</b>	MMs AIR-1 through AIR-5
<b>AIR-2</b>	MMs AIR-1 through AIR-5
<b>BIO-3</b>	MM VELB-1
<b>BIO-4</b>	MM BIRD-1
<b>GHG-1</b>	MM GHG-1
<b>GEO-1</b>	MM GEO-1
<b>NOI-1</b>	MM NOI-1

<sup>2</sup> See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

## **ATTACHMENT C-1**

**Mitigation Monitoring Program Adopted by the  
Central Valley Flood Protection Board**

# Mitigation Monitoring and Reporting Program

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Section 21081.6(a)(1) of the California Public Resources Code (PRC) and Section 15097 of the State CEQA Guidelines require a public agency to adopt a reporting and monitoring program on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental impacts on the physical environment.

This Mitigation Monitoring and Reporting Program (MMRP) will be used by the Central Valley Flood Protection Board (CVFPB) to ensure that mitigation measures identified in the Final Supplemental EA/EIR are implemented as described in the Final Supplemental Environmental Assessment/Environmental Impact Report (EA/EIR), and that their implementation is documented. There are no additional mitigation measures that apply to the project from the American River Watershed Common Features (ARCF) General Reevaluation Report (GRR) Final Environmental Impact Statement (EIS)/EIR.

The MMRP is presented in tabular format. The table columns contain the following information:

**Mitigation Number:** Lists the mitigation measures by number, as designated in the Final Supplemental EA/EIR.

**Mitigation Measure:** Provides the text of the mitigation measures, each of which has been adopted and incorporated into the Project.

**Implementation Timing:** Lists the time frame in which the mitigation measure is expected to take place. The following abbreviations are used in the table:

D: To be implemented or included as part of Project design. Includes pre-Project permitting and agency coordination

P: To be implemented prior to construction being initiated prior (pre-construction), but not part of Project design or permitting

C: To be implemented during Project construction

M: To be implemented as ongoing maintenance after construction is complete

**Implementation Responsibility:** Identifies the entity responsible for implementing the mitigation measure.

**Responsible for Monitoring/Reporting Action:** Identifies the entity responsible for monitoring implementation of the actions described in the mitigation measures. Verification will be carried out during the Project and an MMRP completion report will be submitted to the CVFPB staff upon implementation of all mitigation measures.

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
AIR-1	<p><b>Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices.</b></p> <p>SMAQMD requires that all projects, regardless of their significance, implement the following measures to minimize the generation of fugitive PM dust. The Basic Construction Emission Control Practices shall include measures to control fugitive PM dust pursuant to SMAQMD Rule 403, as well as measures to reduce construction-related exhaust emissions. USACE shall require its contractors to comply with the basic construction emission control practices listed below for all construction-related activities occurring in SMAQMD jurisdiction.</p> <ul style="list-style-type: none"> <li>▪ Water all exposed surfaces two times daily or more, as needed. Exposed surfaces include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads.</li> <li>▪ Cover, or suitably wet soils and other materials on haul trucks transporting soil, sand, or other loose material on the site. Cover any haul trucks that travel along freeways or major roadways.</li> <li>▪ Use wet power vacuum street sweepers to remove any visible trackout mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited.</li> <li>▪ Limit vehicle speed on unpaved roads to 15 mph.</li> <li>▪ Complete pavement of all roadways, driveways, sidewalks, parking lots to be paved as soon as possible. In addition, lay building pads as soon as possible after grading unless seeding or soil binders are used.</li> <li>▪ Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes (required by CCR, Title 13, Sections 2449[d][3] and 2485). Provide clear signage that posts this requirement for workers at the entrances to the site.</li> <li>▪ Maintain all construction equipment in proper working condition according to manufacturer's specifications. Have the equipment checked by a certified mechanic and determined to be running in proper condition before it is operated.</li> </ul>	D, P, C	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>AIR-2</b>	<p><b>Implement the Sacramento Metropolitan Air Quality Management District's Enhanced Fugitive PM Dust Control Practices.</b></p> <p>SMAQMD recommends that construction projects that would exceed or contribute to the mass emissions threshold for PM<sub>10</sub> to implement the Enhanced Fugitive PM Dust Control Practices as applicable to the project. Because the construction activities would involve substantial material movement activities and would be located in proximity of residential receptors, USACE shall require its construction contractors to implement the Enhanced Fugitive PM Dust Control Practices listed below to help reduce potential fugitive PM dust emissions.</p> <p>Soil Disturbance Areas</p> <ul style="list-style-type: none"><li>▪ Water exposed soil with adequate frequency for continued moist soil. However, do not overwater to the extent that sediment flows off the site.</li><li>▪ Suspend excavation, grading, and/or demolition activity when wind speeds exceed 20 mph.</li><li>▪ Install wind breaks (e.g., plant trees, solid fencing) on windward side(s) of construction areas.</li><li>▪ Plant vegetative ground cover (fast germinating native grass seed) in disturbed areas as soon as possible. Water appropriately until vegetation is established.</li></ul> <p>Unpaved Roads (Entrained Road Dust)</p> <ul style="list-style-type: none"><li>▪ Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</li><li>▪ Treat site accesses to a distance of 100 feet from the paved road with a 6- to 12-inch layer of wood chips, mulch, or gravel to reduce generation of road dust and road dust carryout onto public roads.</li><li>▪ Post a publicly visible sign with the telephone number and person to contact at USACE regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of SMAQMD also will be visible to ensure compliance.</li></ul>	D, P, C	USACE	CVFPB



**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>AIR-3</b>	<p><b>Require Lower Exhaust Emissions for Construction Equipment.</b></p> <p>USACE shall require its contractors to use a fleet-wide average of 90 percent Tier 4 emissions vehicles for off-road construction equipment, and on-road haul trucks must be equipped with 2010 or newer engines. In order to demonstrate compliance with this requirement:</p> <ul style="list-style-type: none"> <li>▪ The construction contractor shall submit to USACE and SMAQMD a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the construction project.</li> <li>▪ The inventory shall include the horsepower rating, engine model year, and projected hours of use for each piece of equipment. The construction contractor shall provide the anticipated construction timeline including start date, and name and phone number of the project manager, and on-site foreman. This information shall be submitted at least 4 business days prior to the use of subject heavy-duty off-road equipment. The SMAQMD Construction Mitigation Tool can be used to submit this information. The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.</li> <li>▪ The construction contractor shall provide a plan for approval by USACE and SMAQMD demonstrating that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a project-wide fleet average of 90 percent Tier 4 emissions vehicles. This plan shall be submitted in conjunction with the equipment inventory. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.</li> <li>▪ SMAQMD's Construction Mitigation Tool can be used to identify an equipment fleet that achieves this reduction. The construction contractor shall ensure that emissions from all off-road diesel-powered equipment used on the Project Area do not exceed 40 percent opacity for more than 3 minutes in any 1 hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. Non-compliant equipment will be documented and a summary provided monthly to USACE and SMAQMD. A visual survey of all in-operation equipment shall be made at least weekly. A monthly summary of the visual survey results shall be submitted throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.</li> <li>▪ Use the Construction Mitigation Tool to track PM<sub>10</sub> emissions and mileage traveled by on-road trucks, reporting results to USACE and SMAQMD on a monthly basis.</li> </ul>	D, P, C	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>AIR-4</b>	<b>Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce NO<sub>x</sub> Emissions.</b> USACE shall implement the measures listed below to reduce NO <sub>x</sub> construction-related emissions. Pursuant to SMAQMD thresholds of significance, if the projected construction-related emissions exceed the NO <sub>x</sub> threshold of significance based on the equipment inventory, USACE and CVFPB shall contribute to SMAQMD's off-site mitigation fee program sufficiently to offset the amount by which the proposed project's NO <sub>x</sub> emissions exceed the threshold of 85 pounds per day (the fee would be an estimated \$180,000 for the mitigated emissions of the SREL Contract 1 project). If emissions for the ARCF projects in any given year would exceed the de minimis threshold of 25 tons per year, USACE and CVFPB would enter into an agreement with SMAQMD to purchase offsets for all NO <sub>x</sub> emissions in any year where projected emissions would exceed the threshold. The determination of the final mitigation fee shall be conducted in coordination with SMAQMD before any ground disturbance occurs for any phase of project construction. All mitigation fees shall be paid prior to the start of construction activity to allow SMAQMD to obtain emissions reductions for the proposed project. If there are changes to construction activities (e.g., equipment lists, increased equipment usage or schedules), USACE and CVFPB shall work with SMAQMD to ensure emission calculations and fees are adjusted appropriately.	P, C	USACE	CVFPB
<b>AIR-5</b>	<b>Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce PM<sub>10</sub> Emissions.</b> USACE shall implement the measures listed below to reduce PM <sub>10</sub> construction-related emissions. <ul style="list-style-type: none"><li>Pursuant to SMAQMD thresholds of significance, if the projected construction-related emissions exceed the PM<sub>10</sub> threshold of significance based on the equipment inventory, USACE shall contribute to SMAQMD's off-site mitigation fee program sufficiently to offset the amount by which the proposed project's PM<sub>10</sub> emissions exceed the threshold of 80 pounds per day. The determination of the final mitigation fee shall be conducted in coordination with SMAQMD before any ground-disturbance occurs for any phase of project construction. All mitigation fees shall be paid prior to the start of construction activity to allow SMAQMD to obtain emissions reductions for the proposed project. If there are changes to construction activities (e.g., equipment lists, increased equipment usage or schedules), USACE shall work with SMAQMD to ensure emission calculations and fees are adjusted appropriately.</li></ul>	P, C	USACE	CVFPB
<b>VEG-1</b>	<b>Compensate for Riparian Habitat Removal</b> USACE will implement the following measures to compensate for loss of riparian habitat: To compensate for riparian habitat removal, replacement habitat shall be created at a 2:1 ratio, in accordance with the ARCF GRR Habitat Mitigation, Monitoring, and Adaptive Management Plan (HMMAMP), which includes conceptual mitigation proposals, performance standards, and adaptive management tasks.	D, P, C	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
VELB-1	<p><b>Implement Current USFWS Avoidance, Minimization, and Compensation Measures for Valley Elderberry Longhorn Beetle.</b></p> <p>USACE will implement the following measures in accordance with the <i>Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle</i> (USFWS 2017), to reduce effects on valley elderberry longhorn beetle:</p> <ul style="list-style-type: none"> <li>▪ Fencing. All areas to be avoided during construction activities shall be fenced and/or flagged as close to construction limits as feasible.</li> <li>▪ Avoidance area. To the extent feasible, activities that may damage or kill an elderberry shrub (e.g., trenching, paving, etc.) shall be avoided within 20 feet from the drip-line of the shrub.</li> <li>▪ Worker education. A qualified biologist shall provide training for all contractors, work crews, and any onsite personnel on the status of valley elderberry longhorn beetle, its host plant and habitat, the need to avoid damaging elderberry shrubs, and the possible penalties for noncompliance.</li> <li>▪ Construction monitoring. A qualified biologist shall monitor the work area at appropriate intervals to assure that all avoidance and minimization measures are implemented.</li> <li>▪ Timing. To the extent feasible, activities within 165 feet of an elderberry shrub shall be conducted outside of the valley elderberry longhorn beetle flight season (March - July).</li> <li>▪ Trimming. To the extent feasible, elderberry shrub trimming shall occur between November and February and avoid the removal of any branches or stems greater than or equal to 1 inch in diameter.</li> <li>▪ Chemical Usage. Herbicides shall not be used within the drip-line, and insecticides shall not be used within 100 feet of an elderberry shrub. All chemicals shall be applied using a backpack sprayer or similar direct application method.</li> <li>▪ Mowing. Mechanical weed removal within the drip-line of elderberry shrubs shall be limited to the season when adults are not active (August - February) and shall avoid damaging the shrub.</li> <li>▪ Transplanting. To the extent feasible, elderberry shrubs shall be transplanted when the shrubs are dormant (November through the first two weeks in February) and after they have lost their leaves. Exit-hole surveys will be completed immediately before transplanting. A qualified biologist shall be on-site for the duration of transplanting activities to assure compliance with avoidance and minimization measures and other conservation measures.</li> <li>▪ Compensation. Effects shall be compensated at ratios ranging from 1:1 to 3:1, depending on the compensation approach and circumstances of the affected shrubs. Affected area will be re-vegetated with appropriate native plants.</li> </ul>	D, P, C, M	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>BUOW-1</b>	<b>Implement Measures to Protect Burrowing Owl.</b> USACE will implement the following measures to reduce effects on burrowing owl: <ul style="list-style-type: none"><li>▪ Prior to the implementation of construction, surveys shall be conducted to determine the presence of burrows or signs of burrowing owl at the SRCSD borrow site. The survey shall be conducted in accordance with Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012).</li><li>▪ If burrowing owls are observed, coordination with the California Department of Fish and Wildlife (CDFW) will be initiated to determine the appropriate actions to take or any additional avoidance and minimization measures that may need to occur. These measures may include creating a protective buffer around occupied burrows during the duration of the breeding/juvenile rearing season and biological monitoring of active burrows to ensure that construction activities do not result in adverse effects on nesting burrowing owls.</li><li>▪ If potential burrows are present, all on-site construction personnel shall be instructed on the potential presence of burrowing owls, identification of these owls and their habitat, and the importance of minimizing impacts on burrowing owls and their habitat.</li></ul>	D, P, C	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>BIRD-1</b>	<p><b>Implement Measures to Protect Nesting Migratory Birds</b></p> <p>USACE will implement the following measures to minimize potential effects on active nests of Swainson's hawk, white-tailed kite, purple martin and other migratory birds:</p> <ul style="list-style-type: none"> <li>Before on-site project activities begin, all construction personnel shall participate in a worker environmental awareness program. A qualified biologist shall inform all construction personnel about the life history of Swainson's hawk and the importance of nest sites.</li> <li>A breeding season survey shall be conducted for active Swainson's hawk nests within 0.5 mile of construction activities, including grading. A survey shall also be conducted for active nests of white-tailed kite and purple martin within 500 feet of construction activities and active nests of other migratory birds within 100 feet of construction activities. Swainson's hawk surveys shall be completed during at least two of the following survey periods: January 1 to March 20, March 20 to April 5, April 5 to April 20, and June 10 to July 30 with no fewer than three surveys completed in at least two survey periods, and with at least one survey occurring immediately prior to project initiation (Swainson's Hawk Technical Advisory Committee 2000). Other bird nest surveys could be conducted concurrent with Swainson's hawk surveys, with at least one survey to be conducted no more than 48 hours from the initiation of project activities. If the biologist determines that the area surveyed does not contain any active nests, construction activities, including removal or pruning of trees and shrubs, could commence without any further mitigation.</li> <li>For any active migratory bird nest found, a protective buffer shall be established and implemented until the nest is no longer active. The size of the buffer shall be determined based on the species, nest stage, type and intensity of project disturbance in the nest vicinity, presence of visual buffers, and other variables that may affect susceptibility of the nest to disturbance. A qualified biologist shall monitor the nest during project activities to confirm effectiveness of the buffer and adjust the buffer as needed to ensure project activities do not adversely affect behavior of adults or young.</li> <li>Tree and shrub removal and other clearing, grading, and construction activities that remove vegetation shall not be conducted during the nesting season (generally February 15 through August 31, depending on the species and environmental conditions for any given year).</li> </ul>	D, P, C	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>BAT-1</b>	<b>Implement Measures to Protect Maternity Roosts of Special-Status Bats.</b> CVFPB will implement the following measures to minimize potential for loss of special-status bat maternity roosts: <ul style="list-style-type: none"><li>▪ Conduct Surveys for Active Bat Maternity Roosts. If removal of trees with suitable roost cavities and/or dense foliage cover must occur during the bat pupping season (April 1 through July 31), surveys for active maternity roosts shall be conducted by a qualified biologist in trees designated for removal. The surveys shall be conducted from dusk until dark.</li><li>▪ Establish Appropriate Buffers Around Roosts Sites. If a special-status bat maternity roost is located, appropriate buffers around the roost sites shall be determined by a qualified biologist and implemented to avoid destruction or abandonment of the roost resulting from tree removal or other project activities. The size of the buffer shall depend on the species, roost location, and specific construction activities to be performed in the vicinity. No project activity shall commence within the buffer areas until the end of the pupping season (August 1) or until a qualified biologist confirms the maternity roost is no longer active.</li></ul>	D, P, C	CVFPB	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>GHG-1</b>	<p><b>Implement GHG Reduction Measures.</b></p> <p>Additional measures that would be implemented to further reduce the project's contribution from generation of GHGs include the following:</p> <ul style="list-style-type: none"> <li>▪ Encourage and provide carpools, shuttle vans, transit passes and/or secure bicycle parking for construction worker commutes.</li> <li>▪ Recycle at least 75% of construction waste and demolition debris.</li> <li>▪ Purchase at least 20% of the building materials and imported soil from sources within 100 miles of the project site.</li> <li>▪ Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 3 minutes (5-minute limit is required by the state airborne toxics control measure [Title 13, sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site.</li> <li>▪ Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment must be checked by a certified mechanic and determined to be running in proper condition before it is operated.</li> <li>▪ Use equipment with new technologies (repowered engines, electric drive trains).</li> <li>▪ Perform on-site material hauling with trucks equipped with on-road engines (if determined to be less emissive than the off-road engines).</li> <li>▪ Use an ARB approved low carbon fuel for construction equipment. (NOx emissions from the use of low carbon fuel must be reviewed and increases mitigated.)</li> <li>▪ Purchase GHG offset for program-wide GHG emissions (direct emissions plus indirect emissions from on-road haul trucks plus commute vehicles) exceeding SMAQMD significance thresholds applicable at the time of construction. Carbon offset credits shall be purchased from programs that have been approved by SMAQMD.</li> </ul>	P, C	USACE	CVFPB
<b>CR-1</b>	<p><b>Resolve Adverse Effects through Programmatic Agreement and Historic Properties Treatment Plan (HPTP).</b></p> <p>For CA-SAC-1253 and CA-SAC-43, the two Historic Properties which would be adversely affected by implementation of the Proposed Action (pending concurrence of eligibility and finding of effect in the ARCF PA consultation process), USACE shall consult with the SHPO and interested Native American Tribes in accordance with the ARCF PA and associated HPMP to develop a HPTP. The HPTP shall specify measures that will be implemented to resolve the adverse effects to the Historic Properties and shall constitute mitigation for the effects to these resources. USACE shall implement the terms described in the HPTP.</p>	D, P, C	USACE	CVFPB

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>CR-2</b>	<b>Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan.</b> In accordance with the procedures described in Section 9.2 of the ARCF HPMP, a discovery plan shall be prepared and included in the construction contractor's specifications. The discovery plan shall specify what actions are required to be taken by the contractor in the event of an archaeological discovery and describe what actions USACE may take in the event of a discovery.  In accordance with the procedures described in Section 9.3.9 of the ARCF HPMP, an archaeological monitoring plan shall be developed for the Proposed Action. This plan shall identify the locations of known Historic Properties as well as sensitive areas designated for archaeological monitoring and shall include methods and procedures for monitoring and the procedures to be followed in the event of a discovery of archaeological materials.	D, P, C	USACE	CVFPB
<b>CR-3</b>	<b>Conduct Cultural Resources Awareness Training.</b> In accordance with the procedures described in Section 9.1 of the ARCF HPMP, USACE shall require the contractor to provide a cultural resources and tribal cultural resources sensitivity and awareness training program for all personnel involved in project construction, including field consultants and construction workers. The training shall be developed in coordination with an archaeologist meeting SOI Professional Qualifications Standards for Archaeology, as well as culturally affiliated Native American tribes. USACE may invite Native American representatives from interested culturally affiliated Native American tribes to participate. The training shall be conducted before any project-related construction activities begin in the APE and shall include relevant information regarding sensitive cultural resources and Tribal Cultural Resources, including applicable regulations, protocols for avoidance, and consequences of violating Federal and State laws and regulations.  The training shall also describe appropriate avoidance and impact minimization measures for cultural resources and Tribal Cultural Resources that could be located in the APE and shall outline what to do and who to contact if any potential cultural resources or Tribal Cultural Resources are encountered. The training shall emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and shall discuss appropriate behaviors and responsive actions, consistent with Native American tribal values.	P, C	USACE	CVFPB
<b>CR-4</b>	<b>Implement Procedures for Inadvertent Discovery of Cultural Material.</b> If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, any human remains, bottle glass, ceramics, building remains); Tribal Cultural Resources; sacred sites; or landscapes is made at any time during project-related construction activities, USACE in consultation with CVFPB and other interested parties, shall develop appropriate protection and avoidance measures where feasible. These procedures shall be developed in accordance with the ARCF PA and HPMP, which specifies procedures for post-review discoveries. Additional measures, such as development of HPTPs prepared in accordance with the PA and HPMP may be necessary, if avoidance or protection is not possible.	C	USACE	CVFPB



CR-5	<p><b>In the Event that Tribal Cultural Resources are Discovered Prior to or During Construction, Implement Procedures to Evaluate Tribal Cultural Resources and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects.</b></p> <p>California Native American Tribes that are traditionally and culturally affiliated with the geographic area in which the project is located may have expertise concerning their Tribal Cultural Resources (California PRC Section 21080.3.1). As was done during Supplemental EA/EIR preparation, culturally affiliated Tribes shall be further consulted concerning Tribal Cultural Resources that may be impacted, if these types of resources are discovered prior to or during construction. Further consultation with culturally affiliated Tribes shall focus on identification of measures to avoid or minimize impacts on any such resources discovered during construction. If Tribal Cultural Resources are identified in the APE prior to or during construction, the following performance standards shall be met before proceeding with construction and associated activities that may result in damage to or destruction of Tribal Cultural Resources:</p> <ul style="list-style-type: none"> <li>▪ Each identified Tribal Cultural Resource will be evaluated for CRHR eligibility through application of established eligibility criteria (CCR 15064.636), in consultation with interested Native American Tribes.</li> <li>▪ If a Tribal Cultural Resource is determined to be eligible for listing on the CRHR, USACE, in consultation with CVFPB, will avoid damaging the Tribal Cultural Resource in accordance with California PRC Section 21084.3, if feasible. If CVFPB determines that the project may cause a substantial adverse change to a Tribal Cultural Resource, and measures are not otherwise identified in the consultation process, the following are examples of mitigation steps capable of avoiding or substantially lessening potential significant impacts to a Tribal Cultural Resource or alternatives that would avoid significant impacts to a Tribal Cultural Resource. These measures may be considered to avoid or minimize significant adverse impacts and constitute the standard by which an impact specifically address inadvertent discovery of human remains ay be reached:             <ol style="list-style-type: none"> <li>1) Avoid and preserve resources in place, including, but not limited to, planning construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.</li> <li>2) Treat the resource with culturally appropriate dignity, taking into account the Tribal cultural values and meaning of the resource, including, but not limited to, the following:                 <ol style="list-style-type: none"> <li>a) Protect the cultural character and integrity of the resource.</li> <li>b) Protect the traditional use of the resource.</li> <li>c) Protect the confidentiality of the resource.</li> <li>d) Establish permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or using the resources or places.</li> <li>e) Protect the resource.</li> </ol> </li> </ol> </li> </ul>	P, C	CVFPB	CVFPB
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**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
CR-6	<p><b>Implement Procedures for Inadvertent Discovery of Human Remains.</b></p> <p>To minimize adverse effects from encountering human remains during construction, CVFPB shall implement the following measures.</p> <ul style="list-style-type: none"><li>▪ In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, CVFPB shall consult with USACE, and USACE shall immediately halt potentially damaging excavation in the area of the burial and notify the Sacramento County Coroner and a professional archaeologist to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or State lands (California Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the NAHC by phone within 24 hours of making that determination (California Health and Safety Code Section 7050[c]). After the coroner's findings have been made, the archaeologist and the NAHC-designated MLD, in consultation with the landowner, shall determine the ultimate treatment and disposition of the remains.</li><li>▪ Upon the discovery of Native American human remains, USACE, in coordination with CVFPB, shall require that all construction work must stop within 100 feet of the discovery until consultation with the MLD has taken place. The MLD shall have 48 hours to complete a site inspection and make recommendations to the landowner after being granted access to the site. A range of possible treatments for the remains, including nondestructive removal and analysis, preservation in place, relinquishment of the remains and associated items to the descendants, or other culturally appropriate treatment may be discussed. California PRC Section 5097.98(b)(2) suggests that the concerned parties may mutually agree to extend discussions beyond the initial 48 hours to allow for the discovery of additional remains. The following is a list of site protection measures that CVFPB shall employ:<ul style="list-style-type: none"><li>○ Record the site with the NAHC or the appropriate Information Center.</li><li>○ Record a document with the county in which the property is located.</li><li>○ If agreed to by the MLD and the landowner, CVFPB or CVFPB's authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance, if the NAHC is unable to identify an MLD, or if the MLD fails to make a recommendation within 48 hours after being granted access to the site. CVFPB or CVFPB's authorized representative may also reinter the remains in a location not subject to further disturbance, if CVFPB rejects the recommendation of the MLD and mediation by the NAHC fails to provide measures acceptable to CVFPB. CVFPB shall implement mitigation for the protection of the burial remains. Construction work in the vicinity of the burials shall not resume until the mitigation is completed.</li></ul></li></ul>	C	CVFPB	CVFPB

GEO-1	<p><b>Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices.</b></p> <p>Prior to the start of earthmoving activities, USACE and CVFPB shall obtain coverage under the State Water Resources Control Board (SWRCB) NPDES stormwater permit for general construction activity (Order 2009-0009-DWQ), including preparation and submittal of a project-specific SWPPP at the time the NOI to discharge is filed. The SWPPP shall identify and specify the following:</p> <ul style="list-style-type: none"> <li>the use of an effective combination of robust erosion and sediment control BMPs and construction techniques that shall reduce the potential for runoff and the release, mobilization, and exposure of pollutants, including legacy sources of mercury from project-related construction sites. These may include but would not be limited to temporary erosion control and soil stabilization measures, sedimentation ponds, inlet protection, perforated riser pipes, check dams, and silt fences;</li> <li>the implementation of approved local plans, nonstormwater management controls, permanent post-construction BMPs, and inspection and maintenance responsibilities;</li> <li>the pollutants that are likely to be used during construction that could be present in stormwater drainage and nonstormwater discharges, including fuels, lubricants, and other types of materials used for equipment operation;</li> <li>the means of waste disposal;</li> <li>spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous waste and of hazardous materials used for equipment operation, and emergency procedures for responding to spills;</li> <li>personnel training requirements and procedures that shall be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP; and</li> <li>the appropriate personnel responsible for supervisory duties related to implementation of the SWPPP.</li> </ul> <p>Where applicable, BMPs identified in the SWPPP shall be in place throughout all site work and construction/demolition activities and shall be used in all subsequent site development activities. BMPs may include, but are not limited to, such measures as those listed below.</p> <ul style="list-style-type: none"> <li>work window- conduct earthwork during low flow periods (July 1 through November 30).</li> <li>to the extent possible, stage construction equipment and materials on the landside of the levee in areas that have already been disturbed.</li> <li>minimize ground and vegetation disturbance during project construction by establishing designated equipment staging areas, ingress and egress corridors, spoils disposal and soil stockpile areas, and equipment exclusion zones prior to the commencement of any grading operations.</li> <li>stockpile soil on the landside of the levee reaches, and install sediment barriers (e.g., silt fences, fiber rolls, and straw bales) around the base of stockpiles to intercept runoff and sediment during storm events. If necessary, cover stockpiles with geotextile fabric to provide further protection against wind and water erosion.</li> </ul>	D, P, C	USACE	CVFPB
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**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<ul style="list-style-type: none"><li>▪ install sediment barriers on graded or otherwise disturbed slopes as needed to prevent sediment from leaving the project site and entering nearby surface waters.</li><li>▪ install plant materials to stabilize cut and fill slopes and other disturbed areas once construction is complete. Plant materials could include an erosion control seed mixture or shrub and tree container stock. Temporary structural BMPs, such as sediment barriers, erosion control blankets, mulch, and mulch tackifier, could be installed as needed to stabilize disturbed areas until vegetation becomes established.</li><li>▪ conduct water quality tests specifically for increases in turbidity and sedimentation caused by construction activities.</li><li>▪ prepare a Spill Prevention Control and Countermeasures Plan (SPCCP). An SPCCP is intended to prevent any discharge of oil into navigable water or adjoining shorelines. The contractor would develop and implement an SPCCP to minimize the potential for adverse effects from spills of hazardous, toxic, or petroleum substances during construction and operation activities. The SPCCP would be completed before any construction activities begin. Implementation of this measure would comply with state and Federal water quality regulations. The SPCCP would describe spill sources and spill pathways in addition to the actions that would be taken in the event of a spill (e.g., an oil spill from engine refueling would be immediately cleaned up with oil absorbents). The SPCCP would outline descriptions of containments facilities and practices such as doubled-walled tanks, containment berms, emergency shut-offs, drip pans, fueling procedures and spill response kits. It would also describe how and when employees are trained in proper handling procedure and spill prevention and response procedures.</li><li>▪ A copy of the approved SWPPP shall be maintained and available at all times on the construction site.</li><li>▪ USACE and CVFPB will also prepare an SPCCP. An SPCCP is intended to prevent any discharge of oil into navigable water or adjoining shorelines. The contractor would develop and implement an SPCCP to minimize the potential for adverse effects from spills of hazardous, toxic, or petroleum substances during construction and operation activities. The SPCCP would be completed before any construction activities begin. Implementation of this measure would comply with state and Federal water quality regulations. The SPCCP would describe spill sources and spill pathways in addition to the actions that would be taken in the event of a spill (e.g., an oil spill from engine refueling would be immediately cleaned up with oil absorbents). The SPCCP would outline descriptions of containments facilities and practices such as doubled-walled tanks, containment berms, emergency shut-offs, drip pans, fueling procedures and spill response kits. It would also describe how and when employees are trained in proper handling procedure and spill prevention and response procedures</li></ul>			

**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
<b>HAZ-1</b>	<p><b>Conduct Phase II Investigations as Needed.</b></p> <p>USACE will require that Project Areas be tested for contaminants prior to construction. Any hazardous materials found would be disposed of in accordance with all Federal, State, and local regulations at an approved disposal site. Where construction activities would occur in close proximity to sites identified as RECs in the Phase I ESA (HDR 2019), a Phase II site investigation should also be conducted.</p>	P, C	USACE	CVFPB
<b>HWQ-1</b>	<p><b>Obtain Appropriate Discharge and Dewatering Permit and Implement Provisions for Dewatering</b></p> <p>Before discharging any dewatered effluent to surface water, USACE shall obtain a Low Threat Discharge and Dewatering NPDES permit or an Individual Permit from the Central Valley RWQCB if the dewatering is not covered under the RWQCB's NPDES Construction General Permit. The dewatering permit includes extensive water quality monitoring to adhere to the strict effluent and receiving water quality criteria outlined in the permit. As part of the permit, the permittee shall design and implement measures as necessary to meet the discharge limits identified in the relevant permit. For example, if dewatering is needed during the construction of a cutoff wall, the dewatering permit would require treatment or proper disposal of the water prior to discharge if it is contaminated. These measures shall be selected to achieve maximum sediment removal and represent the best available technology that is economically achievable.</p> <p>Implemented measures could include the retention of dewatering effluent until particulate matter has settled before it is discharged, use of infiltration areas, and other BMPs. Final selection of water quality control measures would be subject to approval by the Central Valley RWQCB. USACE and CVFPB shall verify that coverage under the appropriate NPDES permit has been obtained before allowing dewatering activities to begin. USACE and CVFPB or its authorized agent shall perform routine inspections of the construction area to verify that the water quality control measures are properly implemented and maintained. USACE and CVFPB shall notify its contractors immediately if there is a non-compliance issue and shall require compliance.</p>	D, P, C	USACE	CVFPB

<b>NOI-1</b>	<p><b>Implement Measures to Reduce Construction Noise and Vibration Effects.</b></p> <p>USACE shall require construction contractors to implement measures at each work site to avoid and minimize construction noise and vibration effects on sensitive receptors. Prior to the start of construction, a noise control plan will be prepared to identify feasible measures to reduce construction noise, when necessary. The measures in the plan will apply to construction activities within 500 feet of a sensitive receptor, including, but not limited to, residences. These measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"><li>▪ Provide written notice to residents within 1,000 feet of the construction zone, advising them of the estimated construction schedule. This written notice would be provided within 1 week to 1 month of the start of construction at that location.</li><li>▪ Display notices with information including, but not limited to, contractor contact telephone number(s) and proposed construction dates and times in a conspicuous manner, such as on construction site fences.</li><li>▪ Schedule the loudest and most intrusive construction activities during daytime hours (7:00 a.m. to 7:00 p.m.), when feasible.</li><li>▪ Require that construction equipment be equipped with factory-installed muffling devices, and that all equipment be operated and maintained in good working order to minimize noise generation.</li><li>▪ Locate stationary noise-generating equipment as far as practicable from sensitive receptors.</li><li>▪ Limit unnecessary engine idling (i.e., more than 5 minutes) as required by State air quality regulations.</li><li>▪ Employ equipment that is specifically designed for low noise emission levels, when feasible.</li><li>▪ Employ equipment that is powered by electric or natural gas engines, as opposed to those powered by gasoline fuel or diesel, when feasible.</li><li>▪ If the construction zone is within 500 feet of a sensitive receptor, place temporary barriers between stationary noise equipment and noise sensitive receptors to block noise transmission, when feasible, or take advantage of existing barrier features, such as existing terrain or structures, when feasible.</li><li>▪ If the construction zone is within 500 feet of a sensitive receptor, prohibit use of backup alarms and provide an alternate warning system, such as a flagman or radar-based alarm that is compliant with State and Federal worker safety regulations.</li><li>▪ Locate construction staging areas as far as practicable from sensitive receptors.</li><li>▪ Design haul routes to avoid sensitive receptors, to the extent practical.</li><li>▪ To the extent feasible and practicable, the primary construction contractors shall employ vibration-reducing construction practices such that vibration from construction complies with applicable noise-level rules and regulations that apply to the work, including the vibration standards established for construction vibration-sources by the applicable agencies (City of Sacramento and Sacramento County), depending on the jurisdictional location of the affected receptor(s). Project construction specifications shall require the contractor to limit vibrations to less than 0.2-inch per second PPV, and less than 72 VdB within 50 feet at any building. If construction would occur within 50 feet of any occupied building, the contractor will prepare a vibration control plan prior to</li></ul>	P, C	USACE	CVFPB
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**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
	<p>construction. The plan will include measures to limit vibration, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ Avoid vibratory rollers and packers near sensitive areas.</li> <li>▪ Route heavily loaded trucks away from residential streets, if possible. If no alternatives are available, select streets with the fewest homes.</li> <li>▪ A voluntary pre- and post-construction survey shall be conducted to assess potential architectural damage from levee construction vibration at each residence within 75 feet of construction. The survey shall include visual inspection of the structures that could be affected and documentation of structures by means of photographs and video. This documentation shall be reviewed with the individual owners prior to any construction activities. Post-construction monitoring of structures shall be performed to identify (and repair, if necessary) damage, if any, from construction vibrations. Any damage shall be documented with photographs and video. This documentation shall be reviewed with the individual property owners.</li> <li>▪ Place vibration monitoring equipment at the property line adjacent to large equipment and, with owner approval, at the back of the residential structures adjacent to the large equipment. Record measurements daily.</li> </ul>			
REC-1	<p><b>Implement Bicycle and Pedestrian Detours, Provide Construction Period Information on Facility Closures, and Coordinate with the City of Sacramento to Repair of Damage to Bicycle Facilities.</b></p> <p>USACE and CVFPB shall implement the following measures to reduce temporary, short-term construction effects on recreational facilities in the Project Area:</p> <ul style="list-style-type: none"> <li>▪ Provide marked detours for all bike trails and on-street bicycle routes that are temporarily closed during construction. Detours should be developed in consultation with the City of Sacramento Bicycle and Pedestrian Coordinator at least 10 days before the start of construction activities, as applicable. Post signs that clearly indicate closure routes at major entry points for bicycle trails, post information signs to notify motorists to share the road with bicyclists where necessary, and provide a contact number to call for questions or concerns.</li> <li>▪ Post signs at major entry points for parks and recreation facilities, and boat launch ramps at Miller Park and Garcia Bend Park, clearly indicating closures and estimated duration of closures. Information signs will notify the public of alternate parks and recreation sites, including boat launch ramps, and provide a contact number to call for questions or concerns.</li> <li>▪ Upon completion of levee improvements, coordinate with the City of Sacramento to restore access and repair any construction-related damage to recreational facilities to pre-project conditions.</li> <li>▪</li> </ul>	P, C	USACE	CVFPB

TR-1	<p><b>Prepare and Implement a Traffic Control and Road Maintenance Plan.</b></p> <p>Before the start of project-related construction activities, USACE shall require the contractor to prepare a Traffic Control and Road Maintenance Plan. This plan will describe the methods of traffic control to be used during construction. All on-street construction traffic would be required to comply with the local jurisdiction's standard construction specifications. The items listed below shall be included in the plan and as terms of the construction contracts:</p> <ul style="list-style-type: none"><li>▪ Follow the standard construction specifications of affected jurisdictions and obtain the appropriate encroachment permits, if required. Incorporate the conditions of the encroachment permit into the construction contract. Encroachment permit conditions will be enforced by the agency that issues the encroachment permit.</li><li>▪ Provide adequate parking for construction trucks, equipment, and construction workers within the designated staging areas throughout the construction period. If inadequate space for parking is available at a given work site, the construction contractor shall provide an off-site staging area and, as needed, coordinate the daily transport of construction vehicles, equipment, and personnel to and from the work site.</li><li>▪ Proposed lane closures shall be coordinated with the appropriate jurisdiction and be minimized to the extent possible during the morning and evening peak traffic periods. Construction specifications shall limit lane closures during commuting hours where feasible, and lane closures will be kept as short as possible. If a road must be closed, detour routes and/or temporary roads shall be made to accommodate traffic flows. Signs shall be provided to direct traffic through detours.</li><li>▪ Post signs providing advance notice of upcoming construction activities at least 1 week in advance so that motorists are able to avoid traveling through affected areas during these times.</li><li>▪ Provide bicycle detours to allow for continued use by bicycle commuters. Maintain safe pedestrian and bicyclist access around the construction areas at all times. Construction areas shall be secured as required by the applicable jurisdiction to prevent pedestrians and bicyclists from entering the work site, and all stationary equipment should be located as far away as possible from areas where bicyclists and pedestrians are present.</li><li>▪ Notify (by means such as physical signage, internet postings, letters, or telephone calls) and consult with emergency service providers to inform them of construction activities, maintain emergency access, and facilitate the passage of emergency vehicles on city streets during construction activities. Emergency vehicle access shall be made available at all times.</li><li>▪ The construction contractor shall document pre- and post- construction conditions on roadways used during construction. This information will be used to assess damage to roadways used during construction. The contractor shall repair all potholes, fractures, or other damages.</li><li>▪ Comply with Caltrans requirements by submitting this Traffic Control and Road Maintenance Plan to Caltrans for review to cover points of access from the State highway system (I 5) for haul trucks and other construction equipment.</li></ul>	P, C	USACE	CVFPB
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**Table 1. Mitigation Monitoring and Reporting Program for the Sacramento River East Levee Contract 1 Project**

Mitigation Number	Mitigation Measure	Implementation Timing	Implementation Responsibility	Responsible for Monitoring/Reporting Action
UTL-1	<p><b>Verify Utility Locations, Coordinate with Affected Utility Owners/Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage.</b></p> <p>USACE and CVFPB shall implement the measures listed below before construction begins to avoid and minimize potential damage to utilities, infrastructure, and service disruptions during construction.</p> <ul style="list-style-type: none"> <li>Coordinate with applicable utility and service providers to implement orderly relocation of utilities that need to be removed or relocated.</li> <li>Provide notification of any potential interruptions in service to the appropriate agencies and affected landowners.</li> <li>Verify through field surveys and the use of the Underground Service Alert services the locations of buried utilities in the Project Area, including natural gas, petroleum, and sewer pipelines. Any buried utility lines shall be clearly marked in the area of construction (e.g., in the field) and on the construction specifications in advance of any earthmoving activities.</li> <li>Before the start of construction, prepare and implement a response plan that addresses potential accidental damage to a utility line. The plan shall identify chain-of-command rules for notification of authorities and appropriate actions and responsibilities regarding the safety of the public and workers. A component of the response plan will include worker education training in response to such situations.</li> <li>Stage utility relocations during project construction to minimize interruptions in service.</li> <li>Communicate construction activities with first responders to avoid response delays due to construction detours.</li> </ul>	D, P, C	USACE	CVFPB

Notes:

D: To be implemented or included as part of project design, including pre-project permitting and agency coordination.

P: To be implemented prior to construction being initiated(pre-construction), but not part of project design or permitting.

C: To be implemented during project construction.

M: To be implemented as ongoing maintenance after construction is complete.

**EXHIBIT D – AMERICAN RIVER WATERSHED COMMON FEATURES,  
WATER RESOURCES DEVELOPMENT ACT OF 2016 PROJECT,  
SACRAMENTO RIVER EAST LEVEE  
CONTRACT 1**

**CALIFORNIA STATE LANDS COMMISSION  
STATEMENT OF FINDINGS AND  
STATEMENT OF OVERRIDING CONSIDERATIONS**

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**1.0 INTRODUCTION**

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use lease, to the Sacramento Area Flood Control Agency (SAFCA), for use of sovereign land associated with the proposed American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River East Levee Contract 1 (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)<sup>1</sup> The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

The Commission is a responsible agency under CEQA for the Project because the Commission must approve a lease for the Project to go forward and because the Central Valley Flood Protection Board (CVFPB), as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The CVFPB analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) and a Supplemental EIR (State Clearinghouse [SCH] No. 2005072046). The lead agency certified the EIR on April 22, 2016, the Supplemental EIR on November 22, 2019, and adopted a Mitigation Monitoring Program (MMP). Findings, and a Statement of Overriding Considerations.

The Project includes the installation of levee improvements to reduce risks of levee failure, especially related to seepage, under-seepage, and levee stability. Types of levee improvements would include cut off walls, stability berms and blankets, and toe drains. Activities within state lands would be limited to access and Project staging.

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<sup>1</sup> CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

The CVFPB determined that the Project could have significant environmental effects on the following environmental resources:

- Aesthetics and Visual Resources
- Air Quality
- Vegetation and Wildlife
- Climate Change
- Cultural Resources
- Geological Resources
- Hazardous Wastes and Materials
- Water Quality and Groundwater Resources
- Noise
- Transportation and Circulation
- Public Utilities and Service Systems
- Fisheries
- Land Use
- Recreation

Of the 14 resources areas noted above, Project components within the Commission's jurisdiction (i.e., access, staging, tree trimming) could have significant environmental effects on six of the resource areas, as follows:

- Aesthetics and Visual Resources
- Air Quality
- Vegetation and Wildlife
- Climate Change
- Geological Resources
- Noise

In certifying the Final EIR and Supplemental EIR and approving the Project, the CVFPB imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures; however, even with the integration of all feasible mitigation, the CVFPB concluded in the EIR and Supplemental EIR that some of the identified impacts would remain significant. As a result, the CVFPB adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The CVFPB determined that, after mitigation, the Project may still have significant impacts on Aesthetics and Visual Resources and Air Quality. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts the Statement of Overriding Considerations set forth in this exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the EIR and Supplemental EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes

in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the Commission will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

## **2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD**

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Planning and Management.

## **3.0 FINDINGS**

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR and Supplemental EIR certified by the CVFPB for the Project identify potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the EIR and Supplemental EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIR and Supplemental EIR fully comply with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR and Supplemental EIR. All significant adverse impacts of the Project identified in the EIR relating to the Commission's approval of a General Lease – Public Agency Use, which would allow access and staging, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR and Supplemental EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR and Supplemental EIR.<sup>2</sup>

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

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<sup>2</sup> See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the EIR and Supplemental EIR.

## A. SUMMARY OF FINDINGS

Based on public scoping, there are no resource areas in which the Project resulted in no impacts or less than significant impacts. For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

## B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified in Table 1 were determined in the Final EIR and Supplemental EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

However, even with the integration of all feasible mitigation, the CVFPB concluded in the EIR and Supplemental EIR that the other identified potentially significant impacts will remain significant. Table 1 identifies those impacts that the CVFPB determined would be significant and unavoidable (SU) after mitigation.

**Table 1 – Significant Impacts by Issue Area**

Environmental Issue Area	Impact Nos.	
	LTSM	SU
Aesthetics and Visual Resources		AES-1
Air Quality	AIR-1	AIR-2
Vegetation and Wildlife	BIO-3, BIO-4	
Climate Change	GHG-1	
Geological Resources	GEO-1	
Noise	NOI-1	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

## C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION (LTSM)

The impacts identified below were determined in the EIR and Supplemental EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant. Numbering of the impacts has been added to provide additional clarity (see Attachment D-1).

## 1. AIR QUALITY

### CEQA FINDING NO. AIR-1

Impact: **Impact AIR-1. Potential Conflict with Air Quality Plan or Contribute Substantially to Air Quality Violation.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed on state lands as part of the Project have the potential to contribute to the Project's maximum daily and annual construction emissions, which would exceed the local air agency significance thresholds for oxides of nitrogen (NO<sub>x</sub>) and particulate matter equal to or less than 10 micrometers in diameter (PM<sub>10</sub>) in 2020.

The U.S. Army Corps of Engineers (USACE) will require that the construction contractor implement the Sacramento Metropolitan Air Quality Management District's (SMAQMD's) Basic Construction Emission Control Practices and Enhanced Fugitive PM Dust Control Practices. Contractors will be required to use a fleet-wide average of 90 percent Tier 4 emissions vehicles. USACE will also contribute to SMAQMD's off-site mitigation fee programs for NO<sub>x</sub> and PM<sub>10</sub> emissions in excess of significance thresholds. Implementing MMs AIR-1 through AIR-5 will reduce or offset the Project's emissions to a less than significant level.

**MM AIR-1:** Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices

**MM AIR-2:** Implement the Sacramento Metropolitan Air Quality Management District's Enhanced Fugitive PM Dust Control Practices

**MM AIR-3:** Require Lower Exhaust Emissions for Construction Equipment

**MM AIR-4:** Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce NO<sub>x</sub> Emissions

**MM AIR-5:** Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce PM<sub>10</sub> Emissions

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

## 2. VEGETATION AND WILDLIFE

### CEQA FINDING NO. BIO-3

Impact: **Impact BIO-3. Adverse Effect on Special-Status Species: Valley Elderberry Longhorn Beetle.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in disturbance to elderberry shrubs on state lands. Indirect impacts to Valley Elderberry Longhorn Beetle (VELB), could result in disruption of the larvae's life cycle or death, habitat loss or degradation if the shrub dies or experiences stress, and habitat fragmentation.

USACE will implement current U.S. Fish and Wildlife Service (USFWS) avoidance, minimization, and compensation measures for VELB. Protective buffers will be established around elderberry shrubs on state lands and construction activity will be excluded from these areas. In addition, construction personnel will receive worker awareness training to ensure that workers recognize elderberry shrubs and VELB. Implementation of MM VELB-1 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM VELB-1:** Implement Current USFWS Avoidance, Minimization, and Compensation Measures for Valley Elderberry Longhorn Beetle Compensate for Riparian Habitat Removal

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, CLIMATE CHANGE

### CEQA FINDING NO. BIO-4

Impact: **Impact BIO-4. Adverse Effect on Special-Status Species: Swainson's Hawk and Other Special-Status Birds.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

#### FACTS SUPPORTING THE FINDING(S)

Swainson's hawk, Western yellow-billed cuckoo, white-tailed kite, purple martin, and other migratory birds would be significantly impacted due to effects of construction activities. Nests and burrows could be disturbed during construction, causing loss of eggs or young or forcing nest abandonment.



USACE will conduct pre-construction surveys to determine if nests are present within the Project area. Surveys will be conducted during the nesting season. If migratory bird nests or burrows are discovered, USACE and CVFPB will coordinate with the California Department of Fish and Wildlife (CDFW) to implement a protective buffer for nest based upon the species type, nest stage, type and intensity of Project disturbance in the nest vicinity, and other variables that may affect vulnerability of the nest. In addition, before on-site Project activities begin, all construction personnel shall participate in a worker environmental awareness program. Implementing MM BIRD-1 will reduce or offset the Project's impact to Swainson's hawk and other special-status birds to a less than significant level.

**MM BIRD-1:** Implement Measures to Protect Nesting Migratory Birds.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

### 3. CLIMATE CHANGE

#### **CEQA FINDING NO. GHG-1**

Impact: **Impact GHG-1. Temporary, Short-term Generation of Greenhouse Gas Emissions.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

Activities on state lands will contribute to emissions from construction equipment and worker vehicles would include carbon dioxide (CO<sub>2</sub>) and other "greenhouse gases" (GHGs) that can contribute to climate change. Estimated emissions of GHGs, expressed as CO<sub>2</sub> equivalents (CO<sub>2</sub>e), would exceed SMAQMD's threshold of 1,000 metric tons CO<sub>2</sub>e per year during the estimated construction period in 2020.

A GHG emission reduction plan will be implemented. Mitigation will require efficient operation of construction equipment engines, minimization of idling equipment when not in use, and enhanced emissions reductions for construction equipment used at the Project site. USACE will also purchase carbon credits from programs approved by SMAQMD to mitigate CO<sub>2</sub>e emissions in excess of 1,000 metric tons per year. Implementing MM GHG-1 will reduce or offset the Project's impacts from temporary, short-term generation of GHG emissions to a less than significant level.

**MM GHG-1:** Implement GHG Reduction Measures

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

#### 4. GEOLOGICAL RESOURCES

**CEQA FINDING NO. GEO-1**

Impact: **Impact GEO-1. Potential Temporary, Short-term Construction-related Erosion and Accidental Spills.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

**FACTS SUPPORTING THE FINDING(S)**

Activities on state lands, such as staging and stockpiling, could result in the temporary and short-term disturbance of soil due to storm events. Rainfall of sufficient intensity could dislodge soil particles and generate runoff and localized erosion. In addition, construction activities would employ equipment that uses potentially harmful products such as fuels, lubricants, hydraulic fluids, and coolants. An accidental spill or inadvertent discharge from such equipment could directly affect state lands.

USACE or its contractor will develop and implement a Stormwater Pollution Prevention Plan (SWPPP) and a Spill Prevention Control and Countermeasures Plan including required best management practices (BMPs) to reduce construction-related erosion effects to a less than significant level. All workers will be properly trained on requirements and procedures to properly install and maintain BMPs specified in the SWPPP. Implementing MM GEO-1 will reduce the Project's potential short-term construction erosion impacts to a less than significant level.

**MM GEO-1:** Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

#### 5. NOISE

**CEQA FINDING NO. NOI-1**

Impact: **Impact NOI-1. Potential Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive Noise or Vibration.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

## FACTS SUPPORTING THE FINDING(S)

The Project would generate construction noise and vibration from equipment operating at each work location, and from the transport of construction workers, construction materials, and equipment to and from each work location.

USACE and CVFPB will require a noise control plan and actions to reduce the effects of construction. These actions could include scheduling louder activities for daytime hours, using less noisy equipment where available, and locating and routing activities to minimize effects on sensitive receptors. Implementing MM NOI-1 will reduce significant impacts related to construction noise and construction traffic noise to a less than significant level.

**MM NOI-1:** Implement Measures to Reduce Construction Noise and Vibration Effects.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

## D. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the Final EIR and Supplemental EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

### 1. AESTHETICS AND VISUAL RESOURCES

#### **CEQA FINDING NO. AES-1**

**Impact:**       **Impact AES-1. Changes in Scenic Vistas and Existing Visual Character.**

**Finding(s):**       (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR and Supplemental EIR.

## FACTS SUPPORTING THE FINDING(S)

Temporary visual effects caused by Project construction activities along the Sacramento River were determined to be significant and unavoidable.

No feasible MMs were identified to reduce short-term visual impacts. The presence of construction crews and equipment would degrade the existing visual character and obstruct scenic views. It is infeasible to construct the Project without construction crews and equipment. Screening views of the construction crews and equipment would be

costly, cause their own significant impacts on visual quality, and therefore, would not reduce this significant and unavoidable impact.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

## 2. AIR QUALITY

### CEQA FINDING NO. AQ-2

Impact: **Impact AQ-2. Significant and Unavoidable Cumulative Impacts to Air Quality.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR and Supplemental EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR and Supplemental EIR.

### FACTS SUPPORTING THE FINDING(S)

Air quality is inherently a cumulative effect because existing air quality is a result of past and present projects. During the planned construction period, it is expected that several other projects will be occurring simultaneously in the Sacramento Valley Air Basin. The related projects could potentially generate enough construction-related emissions that they each individually will exceed SMAQMD's threshold of significance. To reduce air quality impact, MMs will be implemented to reduce construction-related emissions.

USACE will require that the construction contractor implement SMAQMD's Basic Construction Emission Control Practices and Enhanced Fugitive PM Dust Control Practices. Contractors will be required to use a fleet-wide average of 90 percent Tier 4 emissions vehicles. USACE will also contribute to SMAQMD's off-site mitigation fee programs for NO<sub>x</sub> and PM<sub>10</sub> emissions in excess of significance thresholds. Implementing MMs AIR-1 through AIR-5 will reduce or offset the Project's emissions, but in combination with other related projects, cumulative impacts would still remain significant and unavoidable and there are no other feasible MMs available to further avoid or reduce this impact.

**MM AIR-1:** Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices

**MM AIR-2:** Implement the Sacramento Metropolitan Air Quality Management District's Enhanced Fugitive PM Dust Control Practices

**MM AIR-3:** Require Lower Exhaust Emissions for Construction Equipment

**MM AIR-4:** Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce NOx Emissions

**MM AIR-5:** Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce PM10 Emissions

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

## **E. FINDINGS ON ALTERNATIVES**

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

*When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].*

The three alternatives analyzed in the EIR and Supplemental EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) No Action Alternative
- 2) Alternative 1 – Improve Levees
- 3) Alternative 2 – Improve Levees and Widen the Sacramento Weir and Bypass (Recommended Plan)

As presented in the EIR and Supplemental EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the EIR, Alternative 2 (Recommended Plan) has been identified as the Environmentally Superior Alternative under CEQA.

The CVFPB independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the CVFPB's independent judgment as to alternatives. The CVFPB found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. The three CEQA alternatives proposed and evaluated in the EIR and Supplemental EIR were

rejected as being infeasible for reasons provided in the CVFPB's Findings Regarding Alternatives (Attachment D-1).

Based upon the objectives identified in the EIR and Supplemental EIR, and the detailed MMs imposed upon the Project, the Commission has determined that the Project should be approved, subject to such MMs (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

## **4.0 STATEMENT OF OVERRIDING CONSIDERATIONS**

### **A. INTRODUCTION**

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River East Levee Contract 1 Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the CVFPB and Commission have imposed MMs to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under two resource areas: Aesthetics and Visual Resources, and Air Quality (see Table 2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in CVFPB's EIR and Supplemental EIR. While the Commission has required all feasible MMs, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

**Table 2 – Significant and Unavoidable Impacts Identified for the Approved Project**

Impact	Impact Description
<b>Aesthetics and Visual Resources</b>	
<b>AES-1. Significant and Unavoidable Impact – Changes in Scenic Vistas and Existing Visual Character.</b>	Temporary visual effects caused by construction activities for the Sacramento River East Levee Contract 1 Project along the Sacramento River were determined to be significant and unavoidable. No feasible MMs were identified to reduce short-term visual effects. The presence of construction crews and equipment would degrade the existing visual character and obstruct scenic views, therefore causing short-term visual effects. It is infeasible to construct the Project without construction crews and equipment. Screening views of the construction crews and equipment would be costly, cause their own significant impacts on visual quality, and therefore would not reduce this significant and unavoidable impact. There are no feasible MMs available to further avoid or reduce this impact.
<b>Air Quality</b>	
<b>AQ-2. Significant and Unavoidable Cumulative Impacts to Air Quality</b>	Air quality is inherently a cumulative effect because existing air quality is a result of past and present projects. During the planned construction period, it is expected that several other projects will be occurring simultaneously in the Sacramento Valley Air Basin (SVAB). The related projects could potentially generate enough construction-related emissions that they each individually will exceed SMAQMD's threshold of significance. To reduce air quality impact, MMs will be implemented to reduce construction-related emissions. Implementing MMs AIR-1 through AIR-5 will reduce or offset the Project's emissions, but in combination with other related projects, cumulative impacts would still remain significant and unavoidable and there are no other feasible MMs available to further avoid or reduce this impact.

## **B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL**

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

Overriding considerations that support Project approval are as follows:

1. The purpose of the Project is to reduce flood risk to the Sacramento area. Flood risk reduction is necessary to provide economic, social, and other benefits, as flood events are often uncontrolled and can result in deaths or injuries, damage to property and infrastructure, and release of environmental contaminants.

2. Sacramento is identified as one of the most at-risk communities in the nation for flooding, motivating the need to reduce this risk through numerous flood damage reduction measures. The existing system leaves the highly urbanized Sacramento area at an unacceptably high level of flood risk. The Sacramento River East Levee is a key feature for flood risk management for Sacramento.
3. Major storms in 1986 and 1997, as well as significant rainfall in recent years, have caused record flood flows in the American River watershed and high lake levels in Folsom Reservoir. Outflows from Folsom Dam, together with high flows in the Sacramento River, caused the river stages to exceed the designed safety margin of levees protecting the city of Sacramento. Levee failure along the lower American River and Sacramento River could result in flooding of more than 100,000 acres, affecting a population of up to 900,000, with damages totaling up to \$58 billion, depending on the magnitude of the event. A large flood could also result in disruption of drinking water supplies with statewide impacts.
4. The Project incorporates all feasible means to minimize, avoid, and mitigate for potential significant and significant and unavoidable adverse impacts on the environment.
5. Flood risk management benefits potentially provided by the Project outweigh the significant and unavoidable adverse environmental effects of the Project. In light of these considerations, the significant and unavoidable impacts on aesthetics and visual resources, and air quality, are considered acceptable.

### **C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS**

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the



Approved Project and with implementation of all feasible mitigation in the EIR and Supplemental EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and Supplemental EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, despite each and every significant unavoidable impact.

#### **D. CONCLUSION**

The Commission has considered the EIR and Supplemental EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the EIR and Supplemental EIR remain unmitigated, MMs have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.

## **ATTACHMENT D-1**

### **Central Valley Flood Protection Board Findings Regarding Alternatives and Statement of Overriding Considerations**

**STATEMENT OF FINDINGS AND  
STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE  
AMERICAN RIVER WATERSHED COMMON FEATURES,  
WATER RESOURCES DEVELOPMENT ACT OF 2016 PROJECT,  
SACRAMENTO RIVER EAST LEVEE CONTRACT 1 –  
SACRAMENTO, CALIFORNIA**

## **Introduction**

The Proposed Project (Project) includes the installation of levee improvements to meet embankment and foundation stability requirements on the Sacramento River East Levee in Sacramento, California, under the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River East Levee Contract 1. Most of the levee improvements included in the Project were analyzed in the American River Common Features General Reevaluation Report (ARCF GRR) Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR). The Central Valley Flood Protection Board (CVFPB) certified the ARCF GRR Final EIS/EIR on April 22, 2016. The U.S. Army Corps of Engineers (USACE) and CVFPB prepared a joint Supplemental Environmental Assessment (EA)/Supplemental EIR (Supplemental EA/EIR) in July 2019 to supplement the ARCF GRR Final EIS/EIR. Some elements of the proposed project (staging areas, haul routes, borrow site, and spoils disposal) were not analyzed in the ARCF GRR Final EIS/EIR because project design had not been conducted to provide the specificity required for project implementation. Through project design and refinement, USACE has identified potential staging areas, haul routes, a borrow site, and potential spoils disposal area, as well as identifying specific seepage and stability improvements and locations, which enabled preparation of the Supplemental EA/EIR to meet National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) requirements. The Supplemental EA/EIR identified significant environmental impacts, including significant and unavoidable environmental impacts that could not be avoided or substantially lessened. The Supplemental EA/EIR was circulated for a 45-day public and agency comment period between August 23 and October 7, 2019.

State CEQA Guidelines Section 15091 requires a CEQA lead agency to make one or more written Findings (Findings) for each significant environmental impact identified in a project's EIR. State CEQA Guidelines Section 15093 requires a CEQA lead agency to prepare a Statement of Overriding Considerations (SOC) of the specific reasons it approves a project that will result in significant effects identified in the Final EIR but not avoided or substantially lessened. As the lead agency under CEQA for the Project, CVFPB has prepared these Findings and SOC to comply with State CEQA Guidelines. These Findings and SOC covering the Project include those Findings for the ARCF GRR Final EIR that apply to the Project. Consequently, the Findings herein for the Project are complete and contain all Findings for the Project. Similarly, the SOC herein for the Project includes those parts of the SOC for the ARCF GRR Final EIR that apply to the Project. Consequently, the SOC herein for the Project is complete and contains all overriding considerations for the Project.

As required by State CEQA Guidelines Section 15091(e), the custodian and location of the Final Supplemental EA/EIR and other documents or other materials which constitute the record of the proceedings are as follows:

Environmental Analysis Section  
Central Valley Flood Protection Board  
3310 El Camino Avenue, Suite 170  
Sacramento, CA 95821

Other documents included in the Project's administrative record can be obtained by contacting the custodian of records identified above.

## Document Organization

This document is organized into the following primary sections:

- Statement of Findings
  - Significant Impacts Reduced to a Less-Than-Significant Level
  - Significant Impacts that Cannot be Reduced to a Less-Than-Significant Level
- Statement of Overriding Considerations
- Adoption of Findings and Statement of Overriding Considerations by the CVFPB

## Statement of Findings

The Final Supplemental EA/EIR identifies the following significant impacts resulting from the Project. Significant impacts that can be avoided or mitigated to a less-than-significant or no impact level are presented first followed by significant and unavoidable impacts. Impacts found not to be significant have not been included. CVFPB, in its capacity as lead agency according to State CEQA Guidelines Section 15091, makes the following Findings for each significant environmental impact followed with a Statement of Fact, which is a brief explanation of the rationale for each Finding based on substantial evidence in the record, as required by State CEQA Guidelines Section 15091(a)(b). CVFPB has also adopted a separate Mitigation Monitoring and Reporting Program (MMRP) for reporting on or monitoring the changes which it has either required in the Project or made a condition of approval to avoid or substantially lessen significant environmental effects, as required in State CEQA Guidelines 15091(d) when making Findings. Mitigation measures are not presented in their entirety in this document; see the Final Supplemental EA/EIR or the MMRP for the full text of mitigation measures.

### *Significant Impacts Reduced to a Less-than-Significant Level*

#### Air Quality

AIR-1 **Significant Impact – Potential Conflict with Air Quality Plan or Contribute Substantially to Air Quality Violation.** The Project's maximum daily and annual construction emissions

would exceed the local air agency significance thresholds for oxides of nitrogen (NO<sub>x</sub>) and particulate matter equal to or less than 10 micrometers in diameter (PM<sub>10</sub>) in 2020.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will require that the construction contractor implement the Sacramento Metropolitan Air Quality Management District's (SMAQMD's) Basic Construction Emission Control Practices and Enhanced Fugitive PM Dust Control Practices. Contractors will be required to use a fleet-wide average of 90 percent Tier 4 emissions vehicles. USACE will also contribute to SMAQMD's off-site mitigation fee programs for NO<sub>x</sub> and PM<sub>10</sub> emissions in excess of significance thresholds. Implementing Mitigation Measures AIR-1 through AIR-5 will reduce or offset the Project's emissions to a less-than-significant level:

Mitigation Measure AIR-1: Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices

Mitigation Measure AIR-2: Implement the Sacramento Metropolitan Air Quality Management District's Enhanced Fugitive PM Dust Control Practices

Mitigation Measure AIR-3: Require Lower Exhaust Emissions for Construction Equipment

Mitigation Measure AIR-4: Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce NO<sub>x</sub> Emissions

Mitigation Measure AIR-5: Use the Sacramento Metropolitan Air Quality Management District's Off-site Mitigation Fee to Reduce PM<sub>10</sub> Emissions

## Vegetation and Wildlife

**Significant Impact – Adverse Effects on Riparian Habitat and Waters of the United States (Long Term Effects on Riparian Habitat).** Removal of 3.55 acres of riparian habitat would cause a significant impact.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will construct 7.1 acres of habitat mitigation at the Beach Stone Lakes Mitigation Site. Implementing Mitigation Measure VEG-1 will reduce or offset the Project's long-term impact on riparian habitat to a less-than-significant level:

Mitigation Measure VEG-1: Compensate for Riparian Habitat Removal

**Significant Impact – Adverse Effects on Riparian Habitat and Waters of the United States (Waters of the United States).** Runoff and erosion from Project activities on the waterside of the levee could cause a significant impact on the Sacramento River, which is a Waters of the United States.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will obtain coverage under the State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) stormwater permit for general construction prior to earthmoving activities. USACE will also prepare and submit a Project-specific Stormwater Pollution Prevention Plan (SWPPP) at the time the Notice of Intent (NOI) to discharge is filed. Supervisory duties related to implementing the SWPPP will be awarded to the appropriate personnel and in turn all workers shall be trained on the requirements and procedures associated with permit requirements and proper installation methods for Best Management Practices (BMPs) specified in the SWPPP. Implementing Mitigation Measure GEO-1 will reduce or offset the Project's long-term impact on Waters of the United States to a less-than-significant level:

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices

### Special-status Species

BIO-3 **Significant Impact – Adverse Effect on Special-status Species: Valley Elderberry Longhorn Beetle.** Approximately 100 elderberry shrubs are present in the vicinity of the Project Site and it is conservatively assumed that up to 20 elderberry shrubs would be removed during construction activities. At such locations where impacts to elderberry shrubs cannot be avoided, removal/transplantation of the shrubs could result in direct or indirect impacts to Valley Elderberry Longhorn Beetle (VELB), such as disruption of the larvae's life cycle or death; habitat loss or degradation if the shrub dies or experiences stress; and habitat fragmentation.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will implement current U.S. Fish and Wildlife Service (USFWS) avoidance, minimization, and compensation measures for VELB to compensate for riparian habitat removal. Removal of elderberry shrubs will be avoided to the extent practicable. Protective buffers will be established around elderberry shrubs and construction activity excluded from these areas. Dormant elderberry shrubs will be transplanted. A qualified biologist will be present for the duration of the transplanting activities to assure compliance with avoidance and minimization measures. Construction personnel will receive worker awareness training to ensure that workers recognize elderberry shrubs and VELB. Compensatory mitigation will be provided by USACE at ratios ranging from 1:1 to 3:1. Affected areas will be restored with the appropriate native plants. Implementing Mitigation Measure VELB-1 will reduce or offset the Project's impact to VELB to a less-than-significant level:

Mitigation Measure VELB-1: Implement Current USFWS Avoidance, Minimization, and Compensation Measures for Valley Elderberry Longhorn Beetle Compensate for Riparian Habitat Removal

**Significant Impact – Adverse Effect on Special-status Species: Burrowing Owl.** Burrowing owl would be significantly impacted due to effects of construction activities. Nests and burrows could be disturbed or destroyed during construction, causing loss of eggs or young or forcing nest abandonment.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will conduct pre-construction surveys to determine if nests are present within the Project area. Surveys will be conducted during the nesting season. If migratory bird nests or burrows are discovered, USACE and CVFPB will coordinate with the California Department of Fish and Wildlife (CDFW) to implement a protective buffer for the nest or burrow to be determined upon the species type, nest or burrow stage, type and intensity of Project disturbance in the nest or burrow vicinity, and other variables that may affect vulnerability of the nest or burrow. Before on-site Project activities begin, all construction personnel shall participate in a worker environmental awareness program. Implementing Mitigation Measure BUOW-1 will reduce or offset the Project's impact to burrowing owl to a less-than-significant level:

Mitigation Measure BUOW-1: Implement Measures to Protect Burrowing Owl

BIO-4 **Significant Impact – Adverse Effect on Special-status Species: Swainson's Hawk and Other Special-status Birds.** Swainson's hawk, Western yellow-billed cuckoo, white-tailed kite, purple martin, and other migratory birds would be significantly impacted due to effects of construction activities. Nests and burrows could be disturbed or destroyed during construction, causing loss of eggs or young or forcing nest abandonment.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts - USACE will conduct pre-construction surveys to determine if nests are present within the Project area. Surveys will be conducted during the nesting season. If migratory bird nests or burrows are discovered, USACE and CVFPB will coordinate with CDFW to implement a protective buffer for the nest or burrow to be determined upon the species type, nest or burrow stage, type and intensity of Project disturbance in the nest or burrow vicinity, and other variables that may affect vulnerability of the nest or burrow. Before on-site Project activities begin, all construction personnel shall participate in a worker environmental awareness program. Implementing Mitigation Measure BIRD-1 will reduce or offset the Project's impact to Swainson's hawk and other special-status birds to a less-than-significant level:

Mitigation Measure BIRD-1: Implement Measures to Protect Nesting Migratory Birds

**Significant Impact – Adverse Effect on Special-status Species: Special-status Bats.** Special-status bats would be significantly impacted due to effects of construction activities on bat

maternity roosts. Bat maternity roosts could be disturbed or destroyed during construction, causing loss of young or forcing roost abandonment.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts - CVFPB will conduct pre-construction surveys to determine if bat maternity roosts are present within the Project area. If removal of trees with suitable roost cavities and/or dense foliage cover must occur during the bat pupping season (April 1 through July 31), surveys for active maternity roosts shall be conducted by a qualified biologist in trees designated for removal. If a special-status bat maternity roost is located, appropriate buffers around the roost sites shall be determined by a qualified biologist and implemented to avoid destruction or abandonment of the roost resulting from tree removal or other project activities. The size of the buffer shall depend on the species, roost location, and specific construction activities to be performed in the vicinity. No project activity shall commence within the buffer areas until the end of the pupping season (August 1) or until a qualified biologist confirms the maternity roost is no longer active. Implementing Mitigation Measure BAT-1 will reduce or offset the Project's impact to special-status bats to a less-than-significant level:

Mitigation Measure BAT-1: Implement Measures to Protect Maternity Roosts of Special-status Bats

## Climate Change

GHG-1 **Significant Impact – Temporary, Short-term Generation of Greenhouse Gas Emissions.** Emissions from construction equipment and worker vehicles would include carbon dioxide (CO<sub>2</sub>) and other “greenhouse gases” (GHGs) that can contribute to climate change. Estimated emissions of GHGs, expressed as CO<sub>2</sub> equivalents (CO<sub>2</sub>e), would exceed SMAQMD's threshold of 1,000 metric tons CO<sub>2</sub>e per year during the estimated construction period in 2020.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts - A GHG emission reduction plan will be implemented. Mitigation will require efficient operation of construction equipment engines, minimization of idling equipment when not in use, and enhanced emissions reductions for construction equipment used at the Project site. USACE will purchase carbon credits from programs approved by SMAQMD to mitigate CO<sub>2</sub>e emissions in excess of 1,000 metric tons per year. Implementing Mitigation Measure GHG-1 will reduce or offset the Project's impacts from temporary, short-term generation of GHG emissions to a less-than-significant level:

Mitigation Measure GHG-1: Implement GHG Reduction Measures

## Cultural Resources

**Significant Impact – Potential Damage to or Destruction of Previously Undiscovered Archaeological Sites or Tribal Cultural Resources.** Cultural resources investigations have



identified archaeological resources and potential Tribal Cultural Resources in the Area of Potential Effects (APE). Based on available information, other areas in the APE are also potentially sensitive for unknown buried archaeological resources and Tribal Cultural Resources and there remains the possibility that previously unknown archaeological resources or Tribal Cultural Resources could be discovered during project construction and inadvertently damaged by earthmoving activities.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – Implementing Mitigation Measures CR-2, CR-3, CR-4, and CR-5 will reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented archaeological resources and Tribal Cultural Resources because appropriate treatment and protection measures must be implemented. Implementing Mitigation Measures CR-2, CR-3, CR-4, and CR-5 will reduce or offset the Project's potential impacts to undocumented archaeological resources and Tribal Cultural Resources to a less-than-significant level:

Mitigation Measure CR-2: Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan

Mitigation Measure CR-3: Conduct Cultural Resources Awareness Training

Mitigation Measure CR-4: Implement Procedures for Inadvertent Discovery of Cultural Material

Mitigation Measure CR-5: In the Event that Tribal Cultural Resources are Discovered Prior to or During Construction, Implement Procedures to Evaluate Tribal Cultural Resources and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects

**Significant Impact – Damage to or Destruction of Human Remains during Construction.**

The Project site and vicinity are known to contain significant prehistoric archaeological sites, including sites with human burials. Native American human remains could be encountered during earthmoving activities associated with the Project.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – Implementing Mitigation Measure CR-6 would reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented human remains because it requires that if human remains are discovered during project-related construction activities, disturbances in the area of the find must be halted and appropriate treatment and protection measures must be implemented, all in consultation with the NAHC, MLD, and landowners, in compliance with California Health and Safety Code Section 7050 et seq. and PRC Section 5097.9 et seq. Implementing Mitigation Measure CR-6 will reduce the Project's potential impacts related to damage or destruction of human remains to a less-than-significant level:

Mitigation Measure CR-6: Implement Procedures for Inadvertent Discovery of Human Remains.

## Geological Resources

GEO-1

### **Significant Impact – Potential Temporary, Short-term Construction-related Erosion.**

Constructing the Project would result in the temporary and short-term disturbance of soil and could expose disturbed areas to storm events. Rainfall of sufficient intensity could dislodge soil particles from the soil surface and generate runoff and localized erosion. In addition, soil disturbance during summer could result in substantial loss of topsoil because of wind erosion.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE or its contractor will develop and implement a SWPPP and a Spill Prevention Control and Countermeasures Plan (SPCCP) including required best management practices (BMPs) to reduce construction-related erosion effects to a less-than-significant level. All workers will be properly trained on requirements and procedures to properly install and maintain BMPs specified in the SWPPP. Implementing Mitigation Measure GEO-1 will reduce the Project's potential short-term construction erosion impacts to a less-than-significant level:

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices

## Hazardous Wastes and Materials

**Significant Impact – Possible Exposure of People and the Environment to Existing Hazardous Materials, Including Cortese-listed Sites.** Project earthmoving activities could expose people or the environment to hazardous materials.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will require testing and investigation to identify and address contaminated sites prior to construction. If hazardous materials are found, they will be disposed of in accordance with all Federal, State, and local regulations at an approved disposal site. Implementing Mitigation Measure HAZ-1 will reduce potential significant impacts to a less-than-significant level:

Mitigation Measure HAZ-1: Conduct Phase II Investigations as Needed

## Water Quality and Groundwater Resources

**Significant Impact – Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface or Groundwater Quality, Result in Substantial Erosion or Siltation On- or Offsite, or Conflict with or Obstruct Implementation of a Water Quality Control Plan or Sustainable Groundwater**

**Management Plan.** Construction activities would employ equipment that uses potentially harmful products such as fuels, lubricants, hydraulic fluids, and coolants, all of which can be toxic to fish and other aquatic organisms. This equipment could be a direct source of contamination if safe equipment and construction practices are not properly followed. An accidental spill or inadvertent discharge from such equipment could directly affect the water quality of the river or water body in the Project Area, or groundwater, and indirectly affect regional water quality of the river or water body. Additionally, earth moving construction activities could result in erosion and/or release sediment into surface water.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE will prepare and implement a SWPPP and comply with the conditions of the NPDES general stormwater permit for construction activity. USACE shall obtain a Low Threat Discharge and Dewatering NPDES permit or an Individual Permit from the Central Valley RWQCB if the Project’s dewatering is not covered under the RWQCB’s NPDES Construction General Permit. Workers will be trained on the installation method of the BMPs addressed in the SWPPP. A Spill Prevention Control and Countermeasures Plan would also be prepared and implemented. Implementing Mitigation Measures GEO-1 and HWQ-1 will reduce impacts to surface water quality to a less-than-significant level:

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices

Mitigation Measure HWQ-1: Obtain Appropriate Discharge and Dewatering Permit and Implement Provisions for Dewatering

## Noise

NOI-1 **Significant Impact – Potential Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive Noise or Vibration.** The Project would generate construction noise and vibration from equipment operating at each work location, and from the transport of construction workers, construction materials, and equipment to and from each work location.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE and CVFPB will require a noise control plan and actions to reduce the effects of construction. These actions could include scheduling louder activities for daytime hours, using less noisy equipment where available, and locating and routing activities to minimize effects on sensitive receptors. Implementing Mitigation Measure NOI-1 will reduce significant impacts related to construction noise and construction traffic noise to a less-than-significant level:

Mitigation Measure NOI-1: Implement Measures to Reduce Construction Noise and Vibration Effects

## Transportation and Circulation

**Significant Impact – Conflict with a Program, Plan, or Ordinance: Decreased Performance or Safety of Alternative Modes of Transportation.** Project construction would require temporary road and trail closures affecting alternative transportation modes.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE and CVFPB will provide public notice in advance of closures and detours/routes, and will require the provision of detour signs indicating the location of alternate routes that could be used by bicyclists or pedestrians. Implementing Mitigation Measure TR-1 will reduce the significant effect associated with alternative modes of transportation to a less-than-significant level:

Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

**Significant Impact – Increased Hazards Due to a Design Feature or Incompatible Uses.** Construction of the Project would potentially increase hazards due to truck traffic, road and lane closures, and pavement conditions.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE and CVFPB will require traffic control and road maintenance actions to reduce hazards. Implementing Mitigation Measure TR-1 will reduce the significant effect associated with potentially increased hazards to a less-than-significant level:

Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

## Public Utilities and Service Systems

**Significant Impact – Potential Disruption of Utility Service.** Project construction activities, including grading and excavation, could inadvertently damage identified and unidentified utility infrastructure and facilities. In addition, required relocation of existing utilities could result in service interruptions.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR.

Statement of Facts – USACE and CVFPB will coordinate with utility service providers and consumers to minimize utility interruptions. A response plan will be prepared and provided prior to construction that will address service interruptions would be prepared and implemented to ensure efficient response and shorten the potential outages. A component of the response plan will require worker education training to respond to accidental damage to a utility line. Using field surveys and the Underground Service alert services, identify locations of buried utilities in the Project Area and clearly mark the area in the construction area. Implementing Mitigation Measure UTL-1 will reduce the potential significant impacts to a less-than significant impact:

Mitigation Measure UTL-1: Verify Utility Locations, Coordinate with Affected Utility Owners/Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage

## Fisheries

**Significant Impact – Fisheries.** The ARCF GRR Final EIS/EIR found that erosion protection activities (which are not part of the Sacramento River East Levee Contract 1 Project addressed in the Final Supplemental EA/EIR) would have significant impacts on fisheries from temporal loss of shaded riverine aquatic habitat. Other potential significant effects on fisheries could occur from erosion and soil disturbance, or accidental spill of hazardous materials.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the ARCF GRR Final EIS/EIR.

Statement of Facts – The Project will include implementation of water quality BMPs to reduce potential effects related to erosion or accidental spills to a less-than-significant level. This requirement was adopted as a Mitigation Measure in the ARCF GRR Final EIS/EIR and MMRP. With that Mitigation Measure, implementing Mitigation Measure GEO-1 in the Final Supplemental EA/will reduce or offset the Project’s significant impact on fisheries to a less-than-significant level:

Mitigation Measure GEO-1: Acquire Appropriate Regulatory Permits and Prepare and Implement a Storm Water Pollution Prevention Plan, Spill Prevention Control and Countermeasures Plan, and Associated Best Management Practices

## Land Use

**Significant Impact – Land Use.** The ARCF GRR Final EIS/EIR found that many homes in the Little Pocket and Pocket areas back up to the levee with little or no land between the levee toe and the fence or backyard, and it was assumed that some acquisition of private property would be required for flood protection levee easements.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the ARCF GRR Final EIS/EIR.

Statement of Facts - All property acquisitions would be conducted in compliance with Federal and State relocation law requiring appropriate compensation, reducing land use impacts to a less-

than-significant level. This requirement was adopted as a Mitigation Measure in the ARCF GRR Final EIS/EIR and MMRP.

### *Significant Impacts that Cannot be Reduced to a Less-than-Significant Level*

#### **Aesthetics and Visual Resources**

**Significant and Unavoidable Impact – Changes in Scenic Vistas and Existing Visual Character.** Temporary visual effects caused by construction activities for the Sacramento River East Levee Contract 1 Project along the Sacramento River were determined to be significant and unavoidable. The ARCF GRR Final EIS/EIR also found that maintaining a landslide levee maintenance corridor would cause long-term visual effects due to the corridor being adjacent to existing residential backyards and removal of landscaping from the maintenance corridor degrading current visual character of individual properties.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that this significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – No feasible mitigation measures were identified to reduce short-term visual effects. The presence of construction crews and equipment would degrade the existing visual character and obstruct scenic views, therefore causing short-term visual effects. It is infeasible to construct the Project without construction crews and equipment. Screening views of the construction crews and equipment would be costly, cause their own significant impacts on visual quality, and therefore would not reduce this significant and unavoidable impact. The ARCF GRR Final EIS/EIR also included a requirement for planting berms to address impacts that would not occur under the SREL Contract 1 Project. This requirement was adopted as a Mitigation Measure in the ARCF GRR Final EIS/EIR and MMRP, but there are no other feasible mitigation measures available to further avoid or reduce this impact.

#### **Air Quality**

AQ-2

**Significant and Unavoidable Cumulative Impact – Air Quality.** Air quality is inherently a cumulative effect because existing air quality is a result of past and present projects. During the planned construction period, it is expected that several other projects will be occurring simultaneously in the Sacramento Valley Air Basin (SVAB). The related projects could potentially generate enough construction-related emissions that they each individually will exceed SMAQMD’s threshold of significance. To reduce air quality impact, mitigation measures will be implemented to reduce construction-related emissions.

Finding – The Sacramento River East Levee Contract 1 Project, in combination with other closely related projects in the area, would have a cumulatively considerable incremental contribution to a significant cumulative effect on air quality. Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR. However, the impact

remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact, is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – USACE will require that the construction contractor implement SMAQMD’s Basic Construction Emission Control Practices and Enhanced Fugitive PM Dust Control Practices. Contractors will be required to use a fleet-wide average of 90 percent Tier 4 emissions vehicles. USACE will also contribute to SMAQMD’s off-site mitigation fee programs for NO<sub>x</sub> and PM<sub>10</sub> emissions in excess of significance thresholds. Implementing Mitigation Measures AIR-1 through AIR-5 will reduce or offset the Project’s emissions, but in combination with other related projects, cumulative impacts would still remain significant and unavoidable and there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure AIR-1: Implement the Sacramento Metropolitan Air Quality Management District’s Basic Construction Emission Control Practices

Mitigation Measure AIR-2: Implement the Sacramento Metropolitan Air Quality Management District’s Enhanced Fugitive PM Dust Control Practices

Mitigation Measure AIR-3: Require Lower Exhaust Emissions for Construction Equipment

Mitigation Measure AIR-4: Use the Sacramento Metropolitan Air Quality Management District’s Off-site Mitigation Fee to Reduce NO<sub>x</sub> Emissions

Mitigation Measure AIR-5: Use the Sacramento Metropolitan Air Quality Management District’s Off-site Mitigation Fee to Reduce PM<sub>10</sub> Emissions

## Vegetation and Wildlife

**Significant and Unavoidable Impact – Adverse Effects on Riparian Habitat and Waters of the United States (Short-term Effects on Riparian Habitat).** Project construction would impact forestland and riparian habitat. Construction activities would require the removal of riparian vegetation and native and non-native trees and shrubs along the waterside levee slope and within waterside staging areas. This would be a temporary significant impact.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – A total of approximately 3.55 acres of riparian habitat would be permanently removed during construction of the Project. USACE will provide compensatory mitigation that includes the creation or restoration of lost riparian habitat at a 2:1 ratio; approximately 7.10 acres of riparian habitat will be planted at the Beach/Stone Lakes Mitigation Site. However, because it would take many years for compensation habitat to provide the value of habitat that would be removed, the short-term habitat loss would remain significant and unavoidable, as described in the ARCF GRR Final EIS/EIR. Implementing Mitigation Measure



VEG-1 will reduce or offset the Project's long-term impact on riparian habitat, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure VEG-1: Compensate for Riparian Habitat Removal

## Cultural Resources

**Significant and Unavoidable Impact – Damage to or Destruction of Known Prehistoric-period Archaeological Sites and Tribal Cultural Resources.** Cultural resources investigations have identified archaeological resources and potential Tribal Cultural Resources on the Project site. Levee improvement activities would include substantial ground disturbance, such as excavation, soil removal, trenching, construction of earthen berms, levee crown degradation and reconstruction for cutoff wall installation, grading, and use of staging areas. These earthmoving activities could result in damage to or destruction of known prehistoric-period archaeological sites and Native American-identified Tribal Cultural Resources.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – Implementing Mitigation Measures CR-1, CR-2, CR-3, CR-4, and CR-5 will reduce the potential for a significant effect resulting from inadvertent damage to or destruction of known prehistoric-period archaeological sites and Native American-identified Tribal Cultural Resources because appropriate treatment and protection measures must be implemented. Implementing Mitigation Measures CR-1, CR-2, CR-3, CR-4, and CR-5 will reduce or offset the Project's impact to known archaeological sites and Tribal Cultural Resources, but the impact remains significant and unavoidable, and there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure CR-1: Resolve Adverse Effects through Programmatic Agreement and Historic Properties Treatment Plan

Mitigation Measure CR-2: Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan

Mitigation Measure CR-3: Conduct Cultural Resources Awareness Training

Mitigation Measure CR-4: Implement Procedures for Inadvertent Discovery of Cultural Material

Mitigation Measure CR-5: In the Event that Tribal Cultural Resources are Discovered Prior to or During Construction, Implement Procedures to Evaluate Tribal Cultural Resources and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects

**Significant and Unavoidable Cumulative Impact – Cultural Resources.** The Project, along with other flood-risk reduction projects, has the potential to contribute to the loss or degradation of known and unrecorded archaeological resources, known prehistoric-period Cultural



Landscapes, known and unknown human remains, and known and unknown historic-period archaeological resources.

Finding – The Sacramento River East Levee Contract 1 Project, in combination with other closely related projects in the area, would have a cumulatively considerable incremental contribution to a significant cumulative effect on cultural resources. Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – Implementing Mitigation Measures CR-1, CR-2, CR-3, CR-4, and CR-5 will reduce contribution to a significant cumulative effect on cultural resources because appropriate treatment and protection measures must be implemented. Implementing Mitigation Measure CR-1 and CR-5 will reduce or offset the Project’s contribution to the cumulative impact to cultural resources, but this impact remains significant and unavoidable and there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure CR-1: Resolve Adverse Effects through Programmatic Agreement and Historic Properties Treatment Plan

Mitigation Measure CR-2: Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan

Mitigation Measure CR-3: Conduct Cultural Resources Awareness Training

Mitigation Measure CR-4: Implement Procedures for Inadvertent Discovery of Cultural Material

Mitigation Measure CR-5: In the Event that Tribal Cultural Resources are Discovered Prior to or During Construction, Implement Procedures to Evaluate Tribal Cultural Resources and Implement Avoidance and Minimization Measures to Avoid Significant Adverse Effects

## Recreation

**Significant and Unavoidable Impact – Temporary and Short-term Changes in Recreational Opportunities during Project Construction Activities.** Project construction would require temporary closures of bicycle and pedestrian facilities, including those along the levee. Access roads near the parkway would be used by trucks as haul routes causing heavier traffic and possible disruption/detours to pedestrian and bicycle trails and boat launches. Recreational experiences may be degraded by construction activities going on within the area. The Project would have short-term, significant and unavoidable effects on recreation.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance

with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – Short-term effects will be reduced by preparing and implementing bicycle and pedestrian detours, providing the public with information regarding detours and alternative access routes, and repairing construction-related damage to pre-project conditions. However, even with the mitigation measures, the short-term impact on recreation would remain significant and unavoidable, as disclosed in the ARCF GRR Final EIS/EIR. Implementing Mitigation Measure REC-1 will reduce or offset the Project’s temporary and short-term impact on recreational opportunities during Project construction activities, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

Mitigation Measure REC-1: Implement Bicycle and Pedestrian Detours, Provide Construction Period Information on Facility Closures, and Coordinate with the City of Sacramento to Repair of Damage to Bicycle Facilities

## Transportation and Circulation

**Significant and Unavoidable Impact – Increase in Traffic Volumes or Decrease in Capacity along Designated Roadways in the Project Area.** Project construction would result in a substantial number of haul truck trips on local roadways and traffic controls during construction activities. Temporary closures on pedestrian and bicycle trails would also be required to accommodate construction activities. The Project would have a significant impact and make a cumulatively considerable incremental contribution to a significant cumulative impact on local roadways.

Finding – Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impact identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – USACE will require the contractor to prepare a Traffic Control and Road Maintenance Plan prior to the start of Project-related construction activities. The contractor will limit lane closures during peak commuting hours and implement detour(s) or temporary roads to accommodate traffic flows. Notice of lane upcoming construction activities will be provided in advance by at least one week so motorists may plan accordingly for travel in affected areas during these times. Existing traffic patterns will be restored at the conclusion of construction, and roads affected by construction-related activities will be repaired.

Implementing Mitigation Measure TR-1 will reduce the significant impact; however, no other feasible mitigation measures are available and Project construction still has the potential to substantially increase traffic in relation to existing traffic load and capacity of the roadway system, and has the potential to substantially disrupt the flow of traffic and cause delay, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

## Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

**Significant and Unavoidable Cumulative Impact – Transportation and Circulation.** The SAC 5 Corridor Enhancement Project and the Delta Shores project (in addition to other construction projects in the Sacramento metropolitan area) would also affect traffic volumes and capacity on I-5 in the vicinity of the Project Area and potentially other proposed haul routes. If other projects substantially affect traffic during these peak construction periods, the potential cumulative effects would be significant on segments of I-5, and the Proposed Action would make a cumulatively considerable incremental contribution to a significant cumulative impact on transportation on segments of I-5.

Finding – The Sacramento River East Levee Contract 1 Project, in combination with other closely related projects in the area, would have a cumulatively considerable incremental contribution to a significant cumulative effect on transportation and circulation. Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable as no other feasible mitigation is available. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – USACE and CVFPB will require the contractor to prepare a Traffic Control and Road Maintenance Plan prior to the start of Project-related construction activities. The contractor will limit lane closures during peak commuting hours and implement detour(s) or temporary roads to accommodate traffic flows. Notice of lane upcoming construction activities will be provided in advance by at least one week so motorists may plan accordingly for travel in affected areas during these times. Existing traffic patterns will be restored at the conclusion of construction, and roads affected by construction-related activities will be repaired.

Implementing Mitigation Measure TR-1 will reduce the significant impact; however, construction of the Project and related projects has the potential to substantially increase traffic in relation to existing traffic load and capacity of the roadway system, and has the potential to substantially disrupt the flow of traffic and cause delay, but there are no other feasible mitigation measures available to further avoid or reduce this impact:

## Mitigation Measure TR-1: Prepare and Implement a Traffic Control and Road Maintenance Plan

### Special-status Species

**Significant and Unavoidable Cumulative Impact – Special-status Species.** The ARCF GRR Final EIS/EIR found that the ARCF GRR Project, along with other related projects, has the potential to contribute to significant cumulative effects on special-status species, including salmonids and green sturgeon.

Finding – The ARCF GRR Project, in combination with other closely related projects in the area, would have a cumulatively considerable incremental contribution to a significant cumulative

impact on special-status fish species. Changes and alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts as identified in the Final Supplemental EA/EIR. However, the impact remains significant and unavoidable. In accordance with Section 15091(a)(3) of the State CEQA Guidelines, the CVFPB concludes that the significant and unavoidable impact is acceptable in light of the project benefits set forth in the “Statement of Overriding Considerations.”

Statement of Facts – USACE will prepare a green sturgeon habitat, mitigation, and monitoring plan (HMMP); implement conservation measures to reduce the adverse effects to listed Chinook, steelhead, delta smelt, and green sturgeon; and compensate for loss of shaded riverine aquatic habitat. These requirements were adopted as Mitigation Measures in the ARCF GRR Final EIS/EIR and MMRP. There are no other feasible mitigation measures available to further reduce this impact; construction effects and tree removal have been mitigated to the greatest degree possible and the Project cannot be constructed without construction effects and tree removal, which do not cause by themselves the significant cumulative impact but make a cumulatively considerable incremental contribution to what is already a significant cumulative impact on special-status projects in the area from urban and other development.

## **Findings Regarding Alternatives to the Project**

Section 15126.6 of the State CEQA Guidelines states:

a) Alternatives to the Proposed Project: An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

State CEQA Guidelines Sections 15091(a)(3) and (b) provide that if a lead agency finds that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR, the Findings shall be supported by substantial evidence in the record. The Findings below regarding environmental effects identify some impacts that are potentially significant and unavoidable even after the implementation of all feasible mitigation measures. This section provides additional detail and Findings supporting those determinations.

Objectives of the Project:

- Reduce the chance of flooding and damages, once flooding occurs, and improve public safety, preparedness, and emergency response.
- Reduce maintenance and repair requirements by modifying the flood management systems in ways that are compatible with natural processes.
- Integrate the recovery and restoration of key physical processes, self-sustaining ecological functions, native habitats, and species.

- Ensure that technically feasible and cost-effective solutions are implemented to maximize the flood risk reduction benefits given the practical limitations of applicable funding sources.

The ARCF GRR Final EIS/EIR evaluated two project alternatives which attain all or most of these basic objectives, and the No-Action Alternative that does not meet any of the Project objectives. Other off-site project alternatives were considered but quickly rejected as infeasible because the Sacramento River East Levee Contract 1 levees would remain with a high risk of failure unless they are fortified. Any alternative must fix the levees in place and because of the large number of houses immediately adjacent to most of the Sacramento River East Levee under Contract 1, any type of setback levee or levee modifications other than a cutoff wall would require removing hundreds of homes and be infeasible. Therefore, there are no other feasible alternatives available to meet all or most of the Project objectives, and significant and unavoidable impacts cannot be further reduced with mitigation measures because all feasible mitigation measures for reducing significant and unavoidable impacts will be implemented.

The alternatives covered in the ARCF GRR Final EIS/EIR would have similar levels of impact and result in similar significant and unavoidable impacts after all feasible mitigation is applied as presented in these Findings.

Based on the ARCF GRR Final EIS/EIR, the Final Supplemental EA/EIR, and the entire record, the CVFPB makes the following Findings with regard to alternatives to the proposed Project:

1. To potentially eliminate or lessen the significance of the Project's significant and unavoidable impacts, the Project would need to be implemented in another location, which is infeasible to address the Project's needs and meet any of the Project's objectives.
2. The social and economic benefits of the Project outweigh the significant and unavoidable impacts because a major portion of the Sacramento metropolitan area with an ongoing high risk of potential flooding has this risk substantially reduced.
3. None of the alternatives examined in the ARCF GRR Final EIS/EIR and the Supplemental EA/EIR, or any other potential alternative for reducing flood risk covered by the Sacramento River East Levee Contract 1, would be a feasible means to avoid or eliminate the remaining significant and unavoidable effects.
4. Alternative 2, while still having significant and unavoidable impacts, has a greater benefit to the environment while meeting most of the basic Project objectives.
5. The No Action Alternative assumes that no work would be completed by USACE and the study area would continue to be at a very high risk of levee failure and subsequent flooding of a major portion of the Sacramento Metropolitan area. This area includes the California State Capitol and other significant infrastructure.

The No Action Alternative is inconsistent with the objectives of the project and leaves the study area at an unacceptable level of risk due to flooding.

The No Action Alternative is not a feasible means to avoid risk to avoid the residual significant and unavoidable effects of the Project.

6. Alternative 1 includes fix-in-place levee remediation measures to address seepage, slope stability, erosion, and overtopping concerns identified for the American and Sacramento River, Natomas East Main Drain Canal, and Arcade, Dry/Robla, and Magpie Creek levees. This alternative would have potentially significant and unavoidable impacts to vegetation and wildlife.

The terms of the Biological Opinion require implementation of green sturgeon modeling and monitoring to improve effects assessment and minimize construction impacts.

This alternative has greater environmental impacts due to the levee raises and fewer environmental benefits.

Alternative 1 has significant and unavoidable impacts to recreation, transportation, visual resources, and cultural resources.

Alternative 1 is not a feasible means to minimize flood risk and meet all or most basic Project objectives and avoid or minimize the residual significant and unavoidable environmental effects of the proposed Project.

7. Alternative 2 includes all levee improvements discussed in Alternative 1, except levee raises along the Sacramento River would be included to a lesser extent. Instead of the full extent of levee raises, the Sacramento Weir and Bypass would be widened to divert more flows into the Yolo Bypass.

While the impacts to landside vegetation would be reduced by the widening of the Sacramento Weir and Bypass, the alternative would still have significant and unavoidable impacts to vegetation and wildlife. The bypass would also create floodplain which could provide benefits to fish species.

The terms of the Biological Opinion require implementation of green sturgeon modeling and monitoring to improve effects assessment and minimize construction impacts. Alternative 2 will also implement fish passage at the Sacramento Bypass and grade the widened Bypass for improved fish movement.

Alternative 2 has significant and unavoidable impacts to recreation, transportation, visual resources, and cultural resources.

8. Since the CVFPB certified the ARCF GRR Final EIS/EIR on April 22, 2016 and selected Alternative 2, USACE and CVFPB have worked to refine the design for the ARCF Project. The Sacramento River East Levee Contract 1 Project has been refined and adjusted to further reduce significant and significant and unavoidable impacts compared to the significant and significant and unavoidable impacts identified in the ARCF GRR Final EIS/EIR.

## Statement of Overriding Considerations

The Final Supplemental EA/EIR concludes that implementing the Sacramento River East Levee Contract 1 Project would result in significant and unavoidable environmental impacts that cannot be avoided or substantially lessened with the incorporation of all feasible mitigation measures or implementation of other feasible alternatives. This Statement of Overriding Considerations is therefore necessary to comply with State CEQA Guidelines Section 15093.

In accordance with State CEQA Guidelines Section 15093, CVFPB balanced the economic, social, technological, and other benefits of the project against its significant and unavoidable environmental risks, and has found that the benefits of the Project outweigh the significant and unavoidable adverse environmental effects to visual resources, air quality, vegetation and wildlife, cultural resources, recreation, transportation and circulation, and special-status species that cannot be feasibly mitigated to less-than significant levels. Overriding considerations that support Project approval are as follows:

1. The purpose of the Sacramento River East Levee Contract 1 Project is to reduce flood risk to the Sacramento area. Flood risk reduction is necessary to provide economic, social, and other benefits, as flood events are often uncontrolled and can result in deaths or injuries, damage to property and infrastructure, and release of environmental contaminants.
2. Sacramento is identified as one of the most at-risk communities in the nation for flooding, motivating the need to reduce this risk through numerous flood damage reduction measures. The existing system leaves the highly urbanized Sacramento area at an unacceptably high level of flood risk. The Sacramento River East Levee is a key feature for flood risk management for Sacramento.
3. Major storms in 1986 and 1997, as well as significant rainfall in recent years, have caused record flood flows in the American River watershed and high lake levels in Folsom Reservoir. Outflows from Folsom Dam, together with high flows in the Sacramento River, caused the river stages to exceed the designed safety margin of levees protecting the City of Sacramento. Levee failure along the lower American River and Sacramento River could result in flooding of more than 100,000 acres, affecting a population of up to 900,000, with damages totaling up to \$58 billion, depending on the magnitude of the event. A large flood could also result in disruption of drinking water supplies with statewide impacts.
4. The Sacramento River East Levee Contract 1 Project incorporates all feasible means to minimize, avoid, and mitigate for potential significant and significant and unavoidable adverse impacts on the environment.
5. Flood risk management benefits potentially provided by the Sacramento River East Levee Contract 1 Project outweigh the significant and unavoidable adverse environmental effects of the Project. In light of these considerations, the significant and unavoidable impacts on visual resources, vegetation and wildlife, cultural resources, recreation, and traffic and circulation are considered acceptable. CVFPB finds that these benefits override the potential significant and unavoidable impacts resulting the Project, including all construction, operations, and maintenance components.

## **ADOPTION OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE CVFPB**

The CVFPB hereby formally adopts the Findings and Statement of Overriding Considerations set forth herein.

The CVFPB has weighed the impacts and benefits of the Project and find that the benefits of implementing the Project outweigh the significant and unavoidable environmental impacts.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
William H. Edgar  
President

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Jane Dolan  
Vice President/Secretary