Meeting Date: 02/28/23
Application Number: 3626
Staff: S. Avila

Staff Report 47

APPLICANT:

Central Valley Flood Protection Board

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

A total of 12,844 linear feet of sovereign land in the Sacramento River, adjacent to the east bank of the Sacramento River at several sites in Sacramento between River Mile (RM) 45 and RM 60, Sacramento County.

AUTHORIZED USE:

Construction, use, and maintenance of levee raises, cutoff walls, seepage berms, and other levee improvements.

TERM:

20 years, beginning February 28, 2023.

CONSIDERATION:

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 start of construction.
- Lessee agrees and acknowledges that the hazards associated with sea level rise may require additional maintenance or protection strategies to ensure safe use of the lease premises.
- Lessee shall place warning signage or buoys, or both, clearly visible from the shore and in the water, both upstream and downstream of the construction sites, to provide notice of the Project and to advise the public to exercise

caution. Lessee shall place and maintain such signage during the term of the Project and shall notify the California Department of Parks and Recreation's Division of Boating and Waterways of the location, description, and purpose of such signage upon installation and removal.

BACKGROUND:

Following extensive flooding in 1986, and severe impacts to Sacramento's levee system, Congress directed the U.S. Army Corps of Engineers (USACE) to investigate additional means to reduce flood risk to the city of Sacramento. USACE completed this investigation in 1991, recommending levee improvements downstream of Folsom Dam. As a result of subsequent studies, the American River Common Features Project (ARCF) was authorized in the Water Resources Development Act of 1996, Pub. L. No. 104-303, § 101(a)(1) (WRDA 1996).

Major components of the ARCF included construction of seepage remediation along approximately 22 miles of American River levees, levee strengthening, and the raising of 12 miles of the Sacramento River levee in the Natomas Basin. Over time, the ARCF Project has expanded and in 2016 an extensive program of levee strengthening and erosion repair along the Sacramento and American Rivers was analyzed in the American River Watershed Common Features General Reevaluation Report (ARCF GRR) Environmental Impact Statement/Environmental Impact Report (2016 EIS/EIR).

The Sacramento River East Levee Contract 4 (SREL C4) project includes the installation of levee improvements to meet embankment and foundation stability requirements along various sections of the SREL in Sacramento, California. Most levee improvements included in the SREL C4 project were analyzed in the 2016 EIS/EIR. The 2016 EIS/EIR analyzed basic erosion protection measures over 3 miles of the Sacramento River, however, some elements of those improvements (e.g., specifics of location and designs, staging areas, haul routes, disposal of soil, and off-site mitigation) were not analyzed because their design had not sufficiently progressed to provide the specificity required for project implementation. Through project design and refinement, USACE has now identified specific locations and design improvements to address erosion concerns, potential staging areas, haul routes, disposal sites, and off-site mitigation for the proposed work. On October 28, 2022, the Central Valley Flood Control Board (CVFPB) certified the Supplemental Environmental Assessment/EIR (2022 Supplemental EA/EIR) that analyzes the environmental impact of the more recently proposed levee repair and improvements.

PROJECT DESCRIPTION:

The SREL C4 project includes the installation of levee improvements to address seepage, stability, and overtopping along the Sacramento River East Levee between the confluence and the community of Freeport. The improvements consist of approximately 12,880 cumulative linear feet (less than 3 miles) of levee raises, cutoff walls, seepage berm, and other levee improvements along the Sacramento River's east levee. Specific improvements include 9,800 linear feet of flood wall, 2,260 linear feet of cutoff wall, 2,200 linear feet of levee raise, 1,000 linear feet of seepage/stability berm, and 300 linear feet of levee remediation from RM 45 to RM 60. Some of the improvement areas overlap.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 21, 2022, the CVFPB submitted an application for a General Lease – Public Agency Use, for the construction, use, and maintenance of levee improvements at various sites in Sacramento under the SREL C4 project. The Applicant is responsible for ensuring that levees are maintained in a manner that reduces the risk of flooding. The Applicant, in partnership with the USACE, California Department of Water Resources, and the Sacramento Area Flood Control Agency, proposes to complete erosion repairs through the addition of bank protection along the waterside slope of the SREL. The project includes multiple sites in the Sacramento River and American River.

The purpose of the SREL C4 project is to reduce the flood risk associated with through-seepage and under-seepage of water from the Sacramento River into the city of Sacramento and the community of Freeport. The primary design objective is to restore the structural stability of the levee and maintain public safety. The project is part of a larger plan to help the Sacramento region achieve a 200-year level of flood protection, meaning a severe flood event with a 1-in-200 chance of occurring in any given year. The Sacramento metropolitan area is one of the most at-risk areas for flooding in the United States. There is a high probability that flood flows in the Sacramento River will stress the network of levees protecting central and southern Sacramento to the point that levees could fail. The consequences of

such a levee failure would be severe since the inundated area is highly urbanized and the flooding could be up to 20-feet deep. The proposed levee improvement design was developed to ensure the future integrity of the levee system.

The proposed project is needed to reduce risks of levee failure, especially related to seepage and under-seepage, overtopping, and levee stability. The levees in the project area are steeply sloped, and this steepness, particularly in the case of a levee constructed with unsuitable materials over a porous foundation, significantly increases the risk of instability. Through-seepage also increases levee instability.

The proposed project includes the following:

- Remediation at five isolated utility windows between RM 45 and RM 60.
- A 1,150-foot-long shallow cutoff wall adjacent and North of the I Street Bridge.
- A 50-foot-long jet-grout cutoff wall near the Pioneer Bridge.
- A 1,730-foot-long cutoff wall including both soil bentonite cutoff wall and jet grout cutoff wall along the levee adjacent to the Westin Hotel at Casilda Way, in the north end of the Little Pocket neighborhood.
- A 400-foot-long cutoff wall segment near Sump 132 at the confluence of the Pocket Canal and the Sacramento River.
- A 200-foot-long levee raise adjacent to Freeport Boulevard and the Lynn Robie Off-Leash Dog Park; and a 100-foot-long utility window remediation adjacent to Freeport Boulevard near its intersection with Stonecrest Avenue.
- An 8,210-foot-long shallow cutoff wall extending from the Bill Conlin Sports Complex to near Cliff's Marina.
- A 200-foot-long flashboard retrofit at Cliff's Marina, a 300-foot-long cutoff wall, and a 1,000-foot-long seepage berm to the south of Cliff's Marina.

Construction is planned to start in April 2023 and conclude in October 2023. Potential staging areas are located adjacent to and landside of the levee, and in nearby city parks and empty parcels. Construction will occur generally between 7 a.m. and 7 p.m., Monday through Sunday. No construction is planned outside these hours in residential areas. In the event that construction schedules were changed to include work outside these hours, construction will only be permitted at the distance required to reduce exterior noise levels below the threshold designated by city code. USACE will acquire temporary, or possible permanent access rights from landowners in coordination with the City. Use of the levee crown and levee road would be limited to the construction crews personally owned vehicles, occasional deliveries, and construction facilities, such as temporary

fencing and lighting. To the extent practical, construction traffic will travel along highways, major streets, and the levee crown. Highways and major streets identified for Project access include I-5, Highway 160 (Freeport Boulevard), Riverside Boulevard, Seamas Avenue, Pocket Road, Cosumnes River Boulevard, Dwight Road, Laguna Boulevard, Richards Boulevard, Bannon Street, Jibboom Street, and North B Street.

The project sites include the levee prism and areas on the landside of the levee where cutoff walls, and seepage berms will be installed; roadways and haul routes used to transport material to and from work areas; and several parking areas, parks, and vacant lots used for staging areas.

Constructing cutoff walls, shallow cutoff walls, and stability berms will fill this gap and strengthen the levee in the project area. If these levee reaches are not improved, the SREL would remain at heightened risk of failure from through-seepage, and much of Sacramento, including the downtown area and nearby neighborhoods, Interstate 5 (I-5), and the California State Capitol, could be significantly damaged during a future flood event. The project objectives are unchanged from the 2016 EIS/EIR and the 2022 Supplemental EIS/EIR.

For this project, cutoff walls will be constructed of soil-bentonite mix and jet grouting at the levee centerline. Cutoff wall construction in depths of up to 145 feet along the existing levee will be accomplished primarily with large, modified excavators. This equipment and the associated sequence of excavation backfill preparation, and placement of backfill into the slurry cutoff wall trench will require a work platform near the trench. A work platform will be established adjacent to the trench by partially degrading the top of the existing levee to provide adequate working width. Excavated soil will be hauled to a nearby area for mixing with bentonite and reintroduction in the trench. The cutoff wall backfill will likely consist of a soil- bentonite mixture.

A stability berm or blanket is a prism of compacted soil that acts as a buttress to increase stability, safety, and sometimes includes an inclined filter/drain zone placed on the landside slope of a levee to capture seepage that would otherwise potentially erode the unprotected levee slope. Typical stability berms 10 to 15 feet high and 10 to 25 feet wide and are considered when there are no substantial right-of-way issues. The stability berm can be constructed within the existing levee, as is proposed for this project.

The inset stability berm would be constructed by excavating the landside levee slope, constructing the filter/drain zone, then rebuilding the levee slope to approximately the original grade with compacted fill. Stability berms and blankets would be constructed using engineered fill, which will be placed in horizontal lifts

consistent with USACE and CVFPB requirements. Each lift would be moisture-conditioned and compacted to the specified density using a suitable compactor, such as a tamping-foot or smooth-drum roller.

The existing approximately 450-foot-long flood wall and flashboard that runs in front of Cliff's Marina would be raised to provide additional height to meet the hydraulic design criteria for the project. The existing flood wall consists of a T-shaped cross section approximately 4.5-feet wide and 5-feet tall. There is an existing toe drain parallel to the landside edge of the existing flood wall that discharges toward the landside toe into a small riprap lined area. The existing flashboard system that runs through the Cliff's Marina parking lot is used only during flood events.

The flashboard system consists of steel sleeves embedded in the ground with 4-inch by 6- inch boards placed between the posts to complete the wall. The wall will be raised by approximately 0.8-feet by adding reinforced concrete. The existing toe drain needs to be improved with new steel pipes to replace the existing PVC pipes and by burying the drain outlets on the landside slope for better long-term performance. To meet the required height for the updated hydraulic design criteria additional 4-inch by 6-inch boards would be added to raise the height of the wall.

The pipe of one municipal drainage system (Sump 41) will be removed during installation of the cutoff wall and replaced following cutoff wall completion. Temporary waterside access below the ordinary high-water mark of the river is required to replace the one existing 14-inch diameter steel outfall pipe with a new steel pipe. Standby bypass pumping and piping is required during construction activities. The new pipe would tie into the existing waterside outfall structure.

Previous levee improvement work in the project area left gaps in the cutoff wall to allow for utilities to pass through. At utility window locations, USACE would construct inset drained seepage/stability berms or jet-grout cutoff walls to prevent through-seepage along the utility conduits.

After construction is complete, the levee crowns will be rebuilt to their design height using appropriately conditioned soils. The reconstructed levee height could differ slightly from the preconstruction levee height along some segments of the levee that may have been affected by prior settlement or other changes after their initial construction, but the visual appearance of the levee will remain similar to the existing condition.

The proposed project is planned to be completed in 2023. Levee repairs will only be done during the non-flood season when river flows are substantially controlled by upstream releases at major reservoirs (Shasta, Oroville, New Bullards Bar, and Folsom), and the river stages are generally known. Furthermore, the contractor is required to complete a Flood Contingency Plan. The staging areas, landside levee

slope, and any other bare earth areas would be reseeded with native grasses to promote revegetation and minimize soil erosion. Any roads or other areas damaged by construction activities would be fully repaired and restored to its preconstruction condition. All trash, excess construction materials, and construction equipment will be removed, and the site will be left in a safe and clean condition.

Ongoing Operation & Maintenance (O&M) activities under SREL C4 will consist of levee inspections, weed abatement, and removal of encroachments and high-hazard vegetation to ensure levee integrity and adequate levee access along the levee toe road. The patrol road will be used, as it is currently used, to access the length of the levee during these activities and during high-flow events for flood-fighting purposes. O&M activities will not require heavier or noisier equipment than under current conditions. O&M inspections will consist of a patrol vehicle traveling along the levee and small machinery for weed abatement such as mowers and weed whackers/trimmers. These activities will only occur periodically, as under existing conditions. O&M activities will not introduce substantial new land uses into the area.

Staff believes the proposed project for construction of the levee improvements along the Sacramento East Levee is consistent with the common law Public Trust Doctrine. The project's purpose is to provide enhanced erosion protection for the levee, thereby protecting the area from potential flooding. The project would ensure the integrity of the levee is maintained preserving Public Trust resources. In addition to maintaining the integrity of the levee, the project would allow for continuation of public access along the levee.

The proposed lease is consistent with the common law Public Trust Doctrine and does not alienate the State's fee simple interest or permanently impair public rights. The lease requires the Applicant to conduct all construction and maintenance work safely and indemnify the Commission in the event of any liability resulting from the proposed action.

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

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

The proposed Project activities are specifically to improve the flood resiliency of the Sacramento River and include the installation of levee improvements to reduce risks of levee failure, especially related to seepage, under-seepage, and levee stability. The improvements include the construction of flood walls, cutoff walls, seepage/stability berms, and levee remediation activities. Work on State lands would be short-term and consist of staging and access to improve existing facilities and reduce the potential for future impacts from climate change to occur.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:
For all the reasons above, staff believes the proposed lease will not substantially impair the public rights to navigation and fishing; or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is 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. The lessee has no right to a new lease or a renewal of any previous lease.

2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.

3. An EIS/EIR and a Supplemental EIS/EIR, State Clearinghouse No. 2005072046, were prepared for this project by the Central Valley Flood Protection Board and certified on April 22, 2016, and October 28, 2022, respectively. Staff has reviewed such documents and Mitigation Monitoring and Reporting Programs prepared 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 (California Code of Regulations, title 14, sections 15091 and 15096) and California Code of Regulations, title 14, section 15093) 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.

APPROVALS OBTAINED:

California Department of Fish and Wildlife
Central Valley Flood Protection Board

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
National Marine Fisheries Service
Sacramento Area Flood Control Agency

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 EIS/EIR and a Supplemental EIS/EIR, State Clearinghouse No. 2005072046, were prepared for this project by the Central Valley Flood Protection Board and certified on April 22, 2016, and October 28, 2022, 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 Exhibit D.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

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.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant, beginning February 28, 2023, for a term of 20 years, for the construction, use, and maintenance of levee raises, cutoff walls, seepage berms, and other levee improvements along the east bank of the Sacramento River, 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

A 3626

LAND DESCRIPTION

Four parcels of tide and submerged land situate in the bed of the Sacramento River, lying between River Mile 45 to River Mile 60, County of Sacramento, State of California and more particularly described as follows:

PARCEL 1

Bounded on the north by a line 40 feet southerly of and parallel with the westerly prolongation of the centerline of the Railyards Boulevard;

Bounded on the south by a line 30 feet northerly of and parallel with the centerline of the I Street Bridge;

Bounded on the west by a Surveyed Contour Line along the left bank of the Sacramento River as shown on that map titled “1953 Contour Survey” (CB 593 and 594) surveyed on September 1953, and it is on the file with State Lands Commission at Sacramento Office;

Bounded on the east by a line 120 feet easterly of and parallel with that Surveyed Contour Line along the left bank of the Sacramento River as shown on that map titled “1953 Contour Survey” (CB 593 and 594) surveyed on September 1953, and it is on the file with State Lands Commission at Sacramento Office.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

PARCEL 2

Bounded on the northeast by a line 30 feet northeasterly of and parallel with the centerline and its northwesterly prolongation of the Sutterville Road;

Bounded on the south by a line 350 feet northerly of and parallel with the line having a bearing of S 75º 18’ 45” E and distance of 385.64 feet and its westerly prolongation of that 32.744 acres of land of S. Masuhara as shown on that map filed on March 3, 1960, in Book 15 of Surveys, Map No. 37, Sacramento County Recorder Office;

Bounded on the east by line 50 feet easterly of and parallel with center line of Levee Road along the left bank of the Sacramento River;

Bounded on the west by a line 100 feet westerly of and parallel with the center line of Levee Road along the left bank of the Sacramento River.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

PARCEL 3

Bounded on the northwest by a line 850 feet southeasterly of and parallel with the southeasterly line and its southwesterly prolongation of Remainder Parcel (2.752 Acres) as shown on that map filed on December 10, 1984, in Book 161 of Maps, Map No. 9, Sacramento County Recorder Office;

Bounded on the southeast by a line 500 feet southeasterly of and parallel with the southeasterly line and its southwesterly prolongation of Lot A as shown on that map filed on November 14, 1986, in Book 171 of Maps, Map No. 19, Sacramento County Recorder Office;

Bounded on the northeast by a center line of Levee Road along the left bank of the Sacramento River;

Bounded on the southwest by a line 100 feet southwesterly of and parallel with the center line of Levee Road along the left bank of the Sacramento River.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

PARCEL 4

Bounded on the northwest by a line 2000 feet northerly of and parallel with the westerly prolongation of the centerline of the Cosumnes River Boulevard;

Bounded on the southwest by a line 350 feet northeasterly of and parallel with the southwesterly line and its northwesterly prolongation of parcel of land described in that Deed of Trust recorded in Book 19981125 at Page 1555, in Official Records of Sacramento County;

Bounded on the east by line 50 feet easterly of and parallel with center line of Levee Road along the left bank of the Sacramento River;

Bounded on the west by a line 150 feet westerly of and parallel with the center line of Levee Road along the left bank of the Sacramento River.

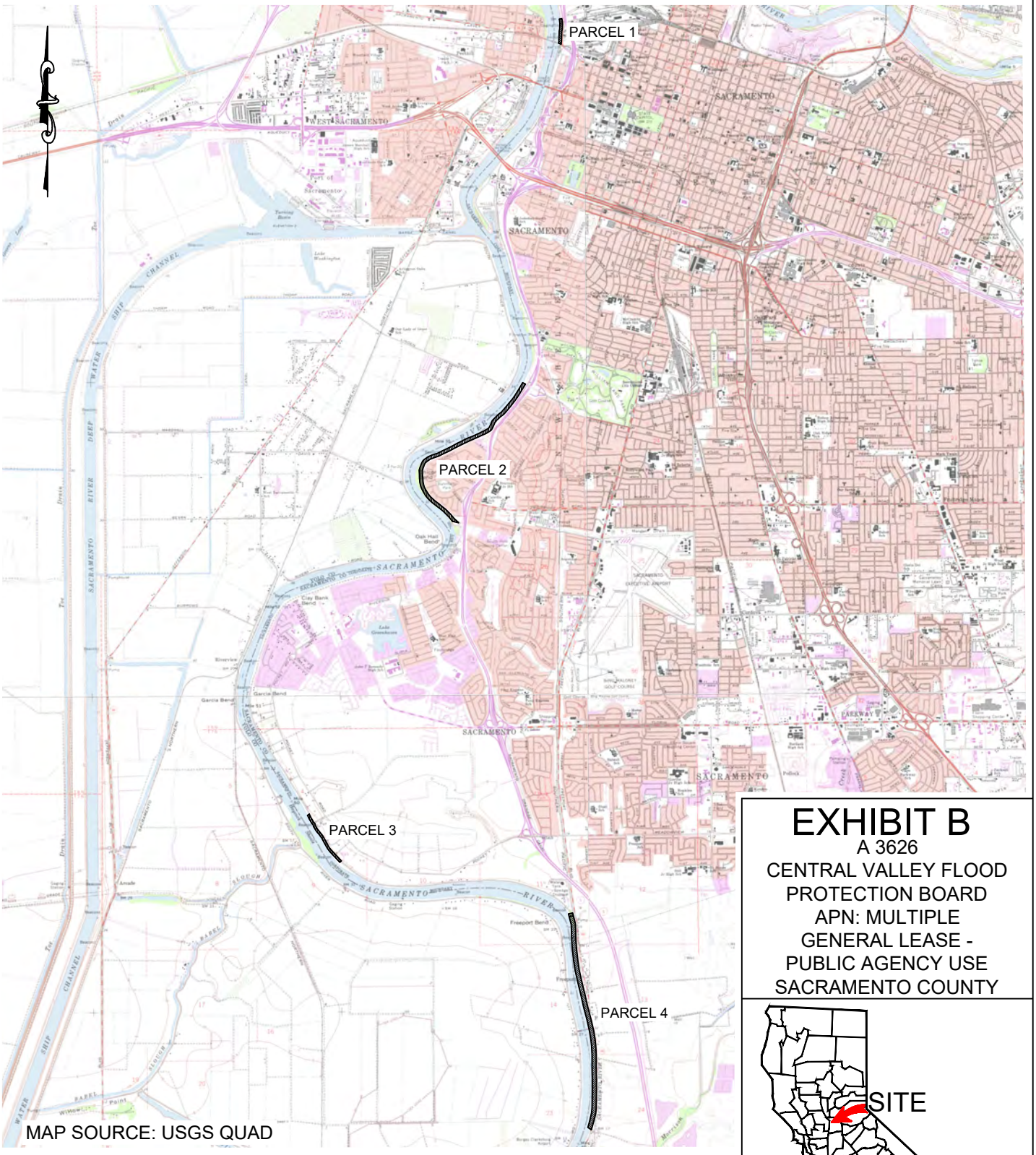
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

END OF DESCRIPTION

Prepared 08/09/2022 by the California State Lands Commission Boundary Unit.

NO SCALE

SITE



MAP SOURCE: USGS QUAD

SACRAMENTO RIVER FROM RM 45 TO RM 60

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

A 3626
CENTRAL VALLEY FLOOD PROTECTION BOARD
APN: MULTIPLE
GENERAL LEASE - PUBLIC AGENCY USE
SACRAMENTO COUNTY

TS 08/09/2022

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 4

(A3626, State Clearinghouse No. 2005072046)

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 4 (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 state 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:[1]

> *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 Environmental Impact Study/EIR, State Clearinghouse No. 2005072046 on April 22, 2016, a Supplemental Environmental Assessment/EIR on October 28, 2022, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for both the whole of the Project, and the portion of the Project covered in the Supplemental (see Exhibit C, Attachment C-1). The

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[1] The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

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 MMRP prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined; and
- Deletions of the text of the mitigation measure are shown as strikeout or as otherwise noted.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)[2]	Difference Between CSLC MMP and Lead Agency MMRP
AIR-1. Adverse Effects on Air Quality from Construction Emissions.	MMs AIR-1 through AIR-4	None
VEG-1a. Long-Term Adverse Effects on Riparian Habitat and Waters of the United States.	MMs VEG-1, GEO-1	None
VEG-1b. Short-Term Adverse Effects on Riparian Habitat and Waters of the United States.	MM VEG-1	None
SSS-1. Adverse Effect on Special-Status Plants.	MM PLANT-1	None
SSS-2. Adverse Effect on Special-Status Species: Valley Elderberry Longhorn Beetle.	MM VELB-1	None
SSS-4. Adverse Effect on Special-status Species: Swainson's Hawk and Other Special-status Birds.	MM BIRD-1	None
GHG-1. Temporary Short-Term Generation of Greenhouse Gas Emissions.	MM GHG-1	None
CR-3. Potential Damage to or	MMs CR-1 through CR-5	See below for

[2] See Attachment C-1 for the full text of each MM taken from the MMRP prepared by the CEQA lead agency.

Potential Impact	Mitigation Measure (MM)[2]	Difference Between CSLC MMP and Lead Agency MMRP
Destruction of Previously Undiscovered Archaeological Sites or Tribal Cultural Resources.		CR-2; None for MMs CR-3, CR-4, CR-5
CR-4. Damage to or Destruction of Human Remains during Construction.	MM CR-6	None
GEO-1. Potential Temporary Short-term Construction-related Erosion.	MM GEO-1	None
HWQ-1. Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface or Groundwater Quality.	MMs GEO-1, HWQ-1	None
NOI-1. Potential Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive Noise.	MM NOI-1	None
NOI-2. Potential Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive Vibration.	MM NOI-1	None
REC-1a. Long-term Changes in Recreational Opportunities during Project Construction Activities.	MM REC-1	None
REC-1b. Short-term Changes in Recreational Opportunities during Project Construction Activities.	MM REC-1	None
UTL-1. Potential Disruption of Utility Service.	MM UTL-1	None

Addition to MM CR-2: Title to all archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission. Commission staff shall be notified of any cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources or paleontological specimens from such lands must be approved by the Commission. In addition, if requested by a Tribe, a Native American Monitor shall remain onsite during Project construction.

ATTACHMENT C-1

Mitigation Monitoring and Reporting Program Adopted by the Central Valley Flood Protection Board

Mitigation Monitoring and Reporting Program

American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River East Levee Contract 4

SCH# 2005072046

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

Contact:

David Moldoff, Manager
Environmental Support Unit
Department of Water Resources
(916) 574-1441

Prepared by:

Kalia Schuster
Environmental Scientist
Department of Water Resources
(916) 574-1429

October 2022

Abbreviations and Acronyms

APE	Area of Potential Effects
ARCF	American River Watershed Common Features
ARCF 2016 Project	American River Watershed Common Features Water Resources Development Act of 2016 Project
BMP	Best Management Practice
BSLMS	Beach/Stone Lakes Mitigation Site
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CCR	Code of California Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CRHR	California Register of Historic Resources
CVFPB	Central Valley Flood Protection Board
EA	Environmental Assessment
EIS	Environmental Impact Statement
EIR	Environmental Impact Report
ESA	Environmental Site Assessment
GHG	Greenhouse Gas
GRR	General Reevaluation Report
HPMP	Historic Properties Management Plan
HPTP	Historic Properties Treatment Plan
MLD	Most Likely Descendent
MMRP	Mitigation Monitoring and Reporting Program
NAHC	Native American Heritage Center
NOI	Notice of Intent
NOx	Oxides of Nitrogen
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
OHWM	Ordinary High Water Mark
PA	Programmatic Agreement
PM	Particulate matter
PM10	Particulate matter 10 microns or less in diameter
PPV	Peak particle velocity
PRC	Public Resources Code
RWQCB	Regional Water Quality Control Board
SHPO	State Historic Preservation Office
SMAQMD	Sacramento Metropolitan Air Quality Management District
SPCCP	Spill Prevention Control and Countermeasures Plan
SR	State Route
SRCSD	Sacramento Regional County Sanitation District
SREL C4	Sacramento River East Levee Contract 4 Project

SWPPP	Stormwater Pollution Prevention Plan
SMAQMD	Sacramento Metropolitan Air Quality Management District
SPCCP	Spill Prevention Control and Countermeasures Plan
SR	State Route
SRCSD	Sacramento Regional County Sanitation District
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
VdB	Velocity decibels

MITIGATION MONITORING AND REPORTING PROGRAM
AMERICAN RIVER WATERSHED COMMON FEATURES,
WATER RESOURCES DEVELOPMENT ACT OF 2016 PROJECT,
SACRAMENTO RIVER EAST LEVEE CONTRACT 4,
SACRAMENTO COUNTY, CALIFORNIA

This mitigation monitoring and reporting program (MMRP) is designed to fulfill Section 21081.6(a) of the California Public Resources Code (PRC) and Section 15097 of the California environmental Quality Act (CEQA) Guidelines. PRC Section 21081.6 (a) and CEQA Section 15097 require that public agencies adopt a reporting or monitoring program whenever a project or program is approved that includes mitigation measures to be imposed to mitigate or avoid significant environmental impacts on the physical environment. The mitigation measures and strategies are described below.

The MMRP includes the following, organized by impact topic:

- Mitigation Number – lists the adopted mitigation measures by number as designated in the Final Supplemental Environmental Impact Report/ Environmental Assessment (Supplemental EIR/EA).
- Mitigation Measure – Provides the text of the mitigation measures, each of which has been adopted and incorporated into the Sacramento River East Levee Contract 4.
- Implementation Timing – identifies the timing of implementation of the action described in the mitigation measures. *See Notes below.
- Responsible for Mitigation – identifies the agency/party responsible for implementing the actions described in the mitigation measures.
- Responsible for Monitoring/Reporting Action– identifies the agency/party responsible for monitoring and/or reporting on the implementation of the actions described in the mitigation measures.

*Notes:
D: To be implemented or included as part of project design.
P: To be implemented prior to construction being initiated (pre-construction).
C: To be implemented during project construction.
M: To be implemented as ongoing maintenance after construction is complete.

Air Quality

AIR-1

Implement the Sacramento Metropolitan Air Quality Management District's Basic Construction Emission Control Practices: Sacramento Metropolitan Air Quality Management District (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. The Project Partners (USACE, CVFPB, and SAFCA) shall require contractors to comply with the basic construction emission control practices listed below for all construction-related activities occurring in SMAQMD jurisdiction.

- Water all exposed surfaces two times daily or more, as needed. Exposed surfaces include, but are not limited to levee crowns, soil piles, graded areas, unpaved parking areas, staging areas, and access roads.
- 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.
- 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.
- Limit vehicle speed on unpaved roads to 15 miles per hour.
- Complete pavement of all roadways, driveways, sidewalks, and 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.
- 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.
- 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.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

AIR-2

Implement the Sacramento Metropolitan Air Quality Management District's Enhanced Fugitive PM Dust Control Practices: SMAQMD recommends that construction projects that would exceed or contribute to the mass emissions threshold for particulate matter equal to or less than 10 micrometers in diameter (PM10) implement the Enhanced Fugitive particulate matter (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, The Project Partners shall require construction contractors to implement the Enhanced Fugitive PM Dust Control Practices listed below, when feasible, to help reduce potential fugitive PM dust emissions.

- Soil Disturbance Areas
    - Water exposed soil with adequate frequency for continued moist soil. However, do not overwater to the extent that sediment flows off the site.
    - Suspend excavation, grading, and/or demolition activity when wind speeds exceed 20 miles per hour.
    - Install wind breaks (e.g., plant trees, solid fencing) on windward side(s) of construction areas.
    - Plant vegetative ground cover (fast germinating native grass seed) in disturbed areas as soon as possible. Water appropriately until vegetation is established.
- Unpaved Roads (Entrained Road Dust)
    - Install wheel washers for all exiting trucks or wash off all trucks and equipment leaving the site.
    - 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.
    - 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.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

AIR-3

Require Lower Exhaust Emissions for Construction Equipment: The Project Partners shall require 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. Tier 0 and uncontrolled engines are prohibited for use in the project. To demonstrate compliance with this requirement:

- 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 8 or more hours during any portion of the construction project.
- 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.
- 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.
- 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 in 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.
- Use the Construction Mitigation Tool to track PM10 emissions and mileage traveled by on-road trucks, reporting results to USACE and SMAQMD on a monthly basis.

Implementation Timing: D, P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

AIR-4

Use the Sacramento Metropolitan Air Quality Management District's Off-Site Mitigation Fee to Reduce NOx Emissions: The Project Partners shall implement the measure listed below to reduce oxides of nitrogen (NOx) construction-related emissions.

- Pursuant to air district thresholds of significance, if the projected construction-related emissions exceed the NOx threshold of significance, based on the equipment inventory and use, USACE shall contribute to SMAQMD's off-site mitigation fee program sufficiently to offset the amount by which the project's NOx emissions exceed the threshold. If emissions for the ARCF 2016 Project in any given year would exceed the de minimis threshold of 25 tons per year, USACE would enter into an agreement with SMAQMD to purchase offsets for all NOx emissions in any year that projected emissions would exceed the threshold. The determination of the estimated mitigation fees shall be conducted in coordination with SMAQMD before any ground disturbance occurs for any phase of project construction. (USACE anticipates purchasing offsets for NOx emissions in 2022 because the ARCF 2016 Project is forecast to exceed the de minimis threshold.) 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.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Vegetation and Wildlife

VEG-1

Compensate for Riparian Habitat Removal: To compensate for riparian habitat removal, replacement habitat will be created in accordance with the 2013 ARCF GRR Fish and Wildlife Coordination Act Report. The mitigation will be implemented at the Beach/Stone Lakes Mitigation Site (BSLMS) or other U.S. Fish and Wildlife Service (USFWS)-approved location.

Implementation Timing: D, P, C, M
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Special Status Species

PLANT-1

The Project Partners will implement the following measures, to avoid and minimize effects on special-status plants:

- Preconstruction surveys will be conducted by a qualified botanist in suitable habitat to determine the presence of any special status plants. Surveys would be conducted at an appropriate time of year during which the species are likely to be detected, which would likely be during the blooming period.
- If special status plant species are found during preconstruction surveys, the habitat will be marked or fenced as an avoidance area during construction. A buffer of 25 feet will be established. If a buffer of 25 feet is not possible, the next maximum possible distance will be fenced off as a buffer.
- If special-status plant species cannot be avoided during construction, USACE and CVFPB will coordinate with the resource agencies to determine additional appropriate mitigation measures.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

VELB-1

The Project Partners would implement the following measures in accordance with the Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle (USFWS 2017) to reduce effects on valley elderberry longhorn beetle:

- Fencing. All areas to be avoided during construction activities would be fenced and/or flagged as close to construction limits as feasible.
- Avoidance area. To the extent feasible, activities that may damage or kill an elderberry shrub (e.g., trenching, paving, etc.) would be avoided within 20 feet from the drip-line of the shrub.
- Worker education. A qualified biologist would 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.
- Construction monitoring. A qualified biologist would monitor the work area at appropriate intervals to assure that all avoidance and minimization measures are implemented
- Timing. To the extent feasible, activities within 165 feet of an elderberry shrub would be conducted outside of the valley elderberry longhorn beetle flight season (March to July).
- Trimming. To the extent feasible, elderberry shrub trimming would occur between November and February and avoid the removal of any branches or stems greater than or equal to 1-inch in diameter.
- Chemical Usage. Herbicides would not be used within the drip-line, and insecticides would not be used within 100 feet of an elderberry shrub. All chemicals would be applied using a backpack sprayer or similar direct application method.
- Mowing. Mechanical weed removal within the drip-line of elderberry shrubs would be limited to the season when adults are not active (August to February) and would avoid damaging the shrub.
- Transplanting. To the extent feasible, elderberry shrubs would be transplanted when the shrubs are dormant (November through the first 2 weeks in February) and after they have lost their leaves. Exit-hole surveys will be completed immediately before transplanting. A qualified biologist would be on-site for the duration of transplanting activities to assure compliance with avoidance and minimization measures and other conservation measures.
- Compensation. Effects would be compensated at ratios ranging from 1:1 to 3:1, depending on the compensation approach and circumstances of the affected shrubs. Affected area would be re- vegetated with appropriate native plants.

Implementation Timing: D, P, C, M
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

BUOW-1

The Project Partners would implement the following measures to reduce effects on burrowing owl:

- Prior to the implementation of construction, surveys would be conducted to determine the presence of burrows or signs of burrowing owl at the Sacramento Regional County Sanitation District (SRCSD) borrow site. A habitat assessment and any proceeding surveys would be conducted in accordance with Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012).
- If burrowing owls are observed, coordination with the California Department of Fish and Wildlife (CDFW) would 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.
- If potential burrows are present, all on-site construction personnel would 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.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

BIRD-1

USACE would implement the following measures to minimize potential effects on active nests of Swainson's hawk, white-tailed kite, purple martin, and other migratory birds:

- Before on-site project activities begin, all construction personnel would participate in a worker environmental awareness program. A qualified biologist would inform all construction personnel about the life history of Swainson's hawk and the importance of nest sites.
- For Swainson's hawk, follow the survey guidelines for the Swainson's Hawk

Technical Advisory Committee 2000. If active nests are found within 0.5 miles of construction activities, consult with CDFW on further action including buffer areas, mitigation and monitoring.

- For purple martin and white-tailed kite, a survey would also be conducted for active nests within 500 feet of construction activities. For all other migratory birds, the survey would cover active nests within 100 feet of construction activities. These surveys could be conducted concurrent with Swainson's hawk surveys, so long as one survey is 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 removing or pruning trees and shrubs, the project can commence.
- For any active migratory bird nest found, a protective buffer would be established and implemented until the nest is no longer active. The size of the buffer would 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 would 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.
- Tree and shrub removal and other clearing, grading, and construction activities that remove vegetation would not be conducted during the nesting season (generally February 15 to August 31, depending on the species and environmental conditions for any given year). If construction activities that require tree and shrub removal occur during the nesting season, USACE and CVFPB would consult with USFWS and CDFW to determine the appropriate measures to implement to avoid adverse effects.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

BAT-1

The Project Partners will implement the following measures to avoid and minimize effects on special-status bats:

- Wherever feasible, USACE will conduct construction activities outside of the pupping season for bats (generally April 1 to August 31).
- USACE or its designated environmental personnel will specify which trees slated for removal contain suitable bat roosting habitat. Trees indicated for removal that

are not identified as suitable bat habitat can be removed using normal methods.

- Live trees that are indicated to contain roosting habitat shall be removed in a two-phase process. The first day, under the supervision of the biological monitor, remove limbs and branches that do not contain cavities, cracks, crevices, or deep bark fissures that can provide roosting habitat. On the second day remove the remainder of tree by gently lowering the tree to the ground, under the supervision of the biological monitor and leave material undisturbed for 48-hours. If it is not feasible to remove a tree using the two-phased approach, limbs containing habitat features should be removed and gently lowered to the ground in a location where they are not likely to be crushed or disturbed by the felling of the tree and left undisturbed for the next 48-hours.
- Standing dead trees or snags with habitat features should be removed over a single day by gently lowering the tree or snag to the ground. The tree or snag should be left undisturbed on the site for the next 48-hours.
- For trees containing suitable bat roosting habitat that will be trimmed, trimming shall be conducted in the presence of a biological monitor. If trimming results in the removal of vegetation that contains potential bat habitat, vegetation should be gently lowered to the ground and left near the tree for 48-hours prior to removal, if feasible. If the vegetation cannot be left for 48-hours, the biological monitor shall survey the vegetation for presence of bats. If any bats are found within the vegetation, the vegetation must be left for 48-hours (or CDFW should be called for guidance regarding relocation of the bat dependent on urgency for removal).
- If removal of trees must occur during the bat pupping season, within 30 days of tree removal activities, all trees to be removed will be surveyed by a qualified biological monitor for the presence of features that may function as special-status bat maternity roosting habitat. Trees that do not contain potential special-status maternity roosting habitat may be removed. For trees that contain suitable special-status bat maternity roosting habitat, surveys for active maternity roosts shall be conducted by the designated biological monitor in trees designated for removal. The surveys shall be conducted from dusk until dark.
- If any special-status species bat maternity roost is located, appropriate buffers must be established by clearly marking the buffer area. The buffer area must be a minimum of 100 feet outside the tree containing the maternity roost. No contract activities shall commence within the buffer areas until the end of pupping season (September 1st) or the biological monitor confirms that the maternity roost is no longer active.
- If construction activities must occur within the buffer, the biological monitor must monitor activities either continuously or periodically during the work, which will be determined by the biological monitor. The biological monitor would be empowered

to stop activities that, in their opinion, would cause unanticipated adverse effects on specials status bats. If construction activities are stopped, the biological monitor would inform USACE, and CDFW would be consulted to determine appropriate measures to implement to avoid adverse effects.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

FISH-1

The Project Partners would implement the following measure to reduce effects on special-status fish:

- In-water construction activities (i.e., work below the Ordinary High Water Mark [OHWM]) will be limited to the work window of July 1 to October 31. The in-water work window could be extended with NMFS approval.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Climate Change

GHG-1

Measures that would be implemented to reduce the project's contribution from generation of greenhouse gas emissions (GHGs) are as follows:

- Encourage and provide carpools, shuttle vans, transit passes, and/or secure bicycle parking for construction worker commutes.
- Recycle at least 75 percent of construction waste and demolition debris.
- Purchase at least 20 percent of the building materials and imported soil from sources within 100 miles of the project site.
- 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's 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.
- 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.

- Use equipment with new technologies (repowered engines, electric drive trains).
- Perform on-site material hauling with trucks equipped with on-road engines (if determined to be less emissive than the off-road engines).
- Use a California Air and Resource Board (CARB)-approved low carbon fuel for construction equipment. (NOx emissions from the use of low carbon fuel must be reviewed and increases mitigated.)
- Purchase GHG offset for program-wide GHG emissions (direct emissions plus indirect emissions from on-road haul trucks plus commute vehicles) that meet the criteria of being real, quantifiable, permanent, verifiable, enforceable, and additional, consistent with the standards set forth in Health and Safety Code section 38562, subdivisions (d)(1) and (d)(2). Such credits shall be based on protocols approved by the California Air Resources Board (CARB), consistent with Section 95972 of Title 17 of the California Code of Regulations, and shall not allow the use of offset projects originating outside of California, except to the extent that the quality of the offsets, and their sufficiency under the standards set forth herein, can be verified by USACE or SMAQMD. Such credits must be purchased through one of the following: (i) a CARB-approved registry, such as the Climate Action Reserve, the American Carbon Registry, and the Verified Carbon Standard; (ii) any registry approved by CARB to act as a registry under the California Cap and Trade program; or (iii) through the California Air Pollution Control Officers Association's (CAPCOA's) GHG Rx and SMAQMD. Purchase of carbon offsets shall be sufficient to reduce the project's GHG emissions to below SMAQMD's significance thresholds applicable through a one-time purchase of credits, based on the emissions estimates in this Supplemental EIR or on an ongoing basis based on monthly emissions estimates that would be prepared in accordance with procedures established by Measure AQ-3.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Cultural and Tribal Cultural Resources

CR-1

For Historic Properties which would be adversely affected by implementation of the project (pending concurrence of eligibility and finding of effect in the ARCF PA

Programmatic Agreement (PA) consultation process), USACE shall consult with the State Historic Preservation Officer (SHPO) and interested Native American Tribes in accordance with the ARCF PA and associated Historic Properties Management Plan (HPMP) to develop a Historic Properties Treatment Plan (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.

Implementation Timing: D, P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

CR-2

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 the Project Partners 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 project. 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.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

CR-3

In accordance with the procedures described in Section 9.1 of the ARCF HPMP, the Project Partners 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 the Secretary of the Interior's Professional Qualifications Standards for Archaeology (36 CFR Part 61), as well as culturally affiliated Native American tribes. The Project Partners 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 Area of Potential Effect (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.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

CR-4

If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, any human remains, bottle glass, ceramics, and 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.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

CR-5

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 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 identifying 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:

- Each identified Tribal Cultural Resource will be evaluated for California Register of Historical Resources (CRHR) eligibility through application of established eligibility criteria (CCR 15064.636), in consultation with interested Native American Tribes.
- 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 impacts and constitute the standard by which an impact specifically address inadvertent discovery of human remains may be reached:
- 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.
- 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:
    - Protect the cultural character and integrity of the resource.
    - Protect the traditional use of the resource.
    - Protect the confidentiality of the resource.
    - 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.
    - Protect the resource.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

CR-6

To minimize adverse effects from encountering human remains during construction, the Project Partners shall implement the following measures.

- 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 Native American Heritage Commission (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 Most Likely Descendant (MLD), in consultation with the landowner, shall determine the ultimate treatment and disposition of the remains.
- Upon the discovery of Native American human remains, the Project Partners 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:
- Record the site with the NAHC or the appropriate Information Center
- Record a document with the county in which the property is located
- 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.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Geological Resources

GEO-1

- Prior to the start of earth-moving activities, the Project Partners will 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 Notice of Intent (NOI) to discharge is filed. The Stormwater Pollution Prevention Plan (SWPPP) would identify and specify the following:
- The use of an effective combination of robust erosion and sediment control BMPs and construction techniques that would 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.
- The implementation of approved local plans, non-stormwater management controls, permanent post-construction Best Management Practices (BMPs), and inspection and maintenance responsibilities.
- The pollutants that are likely to be used during construction that could be present in stormwater drainage and non-stormwater discharges, including fuels, lubricants, and other types of materials used for equipment operation.
- The means of waste disposal.
- 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.
- Personnel training requirements and procedures that would be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP.

- The appropriate personnel responsible for supervisory duties related to implementation of the SWPPP.
- Where applicable, BMPs identified in the SWPPP would be in place throughout all site work and construction/demolition activities and would be used in all subsequent site development activities. BMPs may include, but are not limited to, such measures as those listed below:
- Conduct earthwork during low-flow periods (July 1 to November 30).
- To the extent possible, stage construction equipment and materials on the landside of the levee in areas that have already been disturbed.
- 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.
- 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.
- Install sediment barriers on graded or otherwise disturbed slopes as needed to prevent sediment from leaving the project site and entering nearby surface waters.
- 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.
- Conduct water quality tests specifically for increases in turbidity and sedimentation caused by construction activities.
- A copy of the approved SWPPP will be maintained and available at all times on the construction site.
- The Project Partners will also prepare and implement an 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 double 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.

Implementation Timing: D, P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Hazardous Waste and Materials

HAZ-1

The Project Partners would 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 Recognized Environmental Conditions in the Phase I Environmental Site Assessment (ESA) (HDR 2019), a Phase II site investigation should also be conducted.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Water Quality and Groundwater Resources

HWQ-1

Before discharging any dewatered effluent to surface water, the Project Partners will 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 will include water quality monitoring to adhere to the effluent and receiving water quality criteria outlined in the permit. As part of the permit, the permittee will 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 will represent the best available technology that is economically achievable to achieve maximum sediment removal.

Measures could include retaining 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 will be subject to approval by the Central Valley RWQCB. USACE will verify that coverage under the appropriate NPDES permit has been obtained before allowing dewatering activities to begin. USACE or its authorized agent will perform routine inspections of the construction area to verify that the water quality control measures are properly implemented and maintained. USACE will notify its contractors immediately if there is a non-compliance issue and will require compliance.

Implementation Timing: D, P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Noise

NOI-1

The Project Partners would 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, the construction contractor will prepare a noise control plan to identify feasible measures to reduce construction noise, when necessary. The measures in the plan would 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:

- 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.
- 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.
- Schedule the loudest and most intrusive construction activities during daytime hours (7:00 a.m. to 7:00 p.m.) Monday through Friday, when feasible.
- 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.
- Locate stationary noise-generating equipment as far as practicable from sensitive receptors.
- Limit unnecessary engine idling (i.e., more than 5 minutes) as required by State air

quality regulations.

- Employ equipment that is specifically designed for low noise emission levels, when feasible.
- Employ equipment that is powered by electric or natural gas engines, as opposed to those powered by gasoline fuel or diesel, when feasible.
- 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.
- 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.
- Locate construction staging areas as far as practicable from sensitive receptors.
- Design haul routes to avoid sensitive receptors, to the extent practical.
- To the extent feasible and practicable, the primary construction contractors would 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), and the California Department of Transportation's (Caltrans) Transportation and Construction Vibration Guidance Manual, which identifies maximum vibration levels of 0.2 to 0.5-inch per second Peak Particle Velocity (PPV) for minimizing damage to structures. Project construction specifications would require the contractor to limit vibrations to less than 0.2-inch per second PPV, and less than 72 vibration decibels (VdB) within 50 feet at any building. If construction would occur within 50 feet of any occupied building, the contractor would prepare a vibration control plan prior to construction. The plan would include measures to limit vibration, including but not limited to the following:
    - Numerical thresholds above which the contractor would be required to document vibration sources and implement measures to reduce vibration, and above which work would be required to stop for consideration of alternative construction methods.
    - Avoid vibratory rollers and packers near sensitive areas to the maximum extent practicable.
    - Route heavily loaded trucks away from residential streets, if possible. If no alternatives are available, select streets with the fewest homes.
    - A voluntary pre- and post-construction survey would be conducted to assess

the existing condition of structures prior to construction and potential architectural/structural damage induced by levee construction vibration at each structure within 100 feet of construction activities, including staging areas. The survey would include visual inspection of the structures that could be affected and documentation of structures by means of photographs and video. This documentation would be reviewed with the individual owners prior to any construction activities. Post-construction monitoring of structures would be performed to identify (and repair, if necessary) damage, if any, from construction activities. Any construction-related damage would be documented with photographs and video. This documentation would be reviewed with the individual property owners.

- Place vibration monitoring equipment in lines approximately parallel to the levee alignment at intervals not to exceed 200 feet along the construction limits, including active staging areas. Vibration monitors will be operational at all times during the performance of construction activities. The contractor will monitor and record vibrations continuously.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Recreation

REC-1

The Project Partners will implement the following measures to reduce temporary, short-term construction effects on recreation facilities in the Project Area:

- 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.
- Post signs at major entry points for parks and recreation facilities, and boat ramps clearly indicating closures and estimated duration of closures. Information signs would notify the public of alternate parks and recreation sites, including boat launch ramps, and provide a contact number to call for questions or concerns.
- 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.

Implementation Timing: C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Transportation and Circulation

TR-1

Before the start of project-related construction activities, the Project Partners would require the contractor to prepare a Traffic Control and Road Maintenance Plan. This plan would 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 would be included in the plan and as terms of the construction contracts:

- 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 would be enforced by the agency that issues the encroachment permit.
- 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 would 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.
- Proposed lane closures would be coordinated with the appropriate jurisdiction and be minimized to the extent possible during the morning and evening peak traffic periods. Construction specifications would limit lane closures during commuting hours where feasible, and lane closures would be kept as short as possible. If a road must be closed, detour routes and/or temporary roads would be made to accommodate traffic flows. Signs would be provided to direct traffic through detours.
- 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.
- 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 would 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.

- 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 would be made available at all times.
- The construction contractor would document pre- and post- construction conditions on roadways used during construction. This information would be used to assess damage to roadways used during construction. The contractor would repair all potholes, fractures, or other damages.
- Comply with Caltrans requirements by submitting this Traffic Control and Road Maintenance Plan to California Department of Transportation (Caltrans) for review to traffic controls and cover points of access from the State highway system (State Route [SR] 160 and I-5) for haul trucks and other construction equipment.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

Public Utility Service Systems

UTL-1

The Project Partners will implement the measures listed below before construction begins to avoid and minimize potential damage to utilities, infrastructure, and service disruptions during construction.

- Coordinate with applicable utility and service providers to implement orderly relocation of utilities that need to be removed or relocated.
- Provide notification of any potential interruptions in service to the appropriate agencies and affected landowners.
- 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 would be clearly marked in the area of construction (e.g., in the field) and on the construction specifications in advance of

any earthmoving activities.

- Before the start of construction, prepare and implement a response plan that addresses potential accidental damage to a utility line. The plan would 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 would include worker education training in response to such situations.
- Stage utility relocations during project construction to minimize interruptions in service.
- Communicate construction activities with first responders to avoid response delays due to construction detours.

Implementation Timing: P, C
Responsible for Mitigation: USACE
Responsible for Monitoring/Reporting Action: CVFPB, USACE

EXHIBIT D – AMERICAN RIVER WATERSHED COMMON FEATURES, WATER RESOURCES DEVELOPMENT ACT OF 2016 PROJECT, SACRAMENTO RIVER EAST LEVEE CONTRACT 4

CALIFORNIA STATE LANDS COMMISSION

STATEMENT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

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 4 (SREL C4 or Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)[1] 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 environmental impacts associated with the Project were originally evaluated in the American River Watershed Common Features General Reevaluation Report Final Environmental Impact Study/Report (herein referred to as the ARCF GRR EIR) State Clearinghouse [SCH] No. 2005072046 and a Supplemental Environmental Assessment/Environmental Impact Report (herein referred to as the Supplemental EIR (SCH No. 2020070269). The lead agency certified the ARCF

[1] 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.

GRR EIR on April 22, 2016, and the Supplemental EIR on October 28, 2022, and adopted a Mitigation Monitoring and Reporting Program (MMRP), Findings, and a Statement of Overriding Considerations.

The Project includes the installation of levee improvements consisting of approximately 12,880 cumulative feet (less than 3 miles) of levee raises, cutoff walls, seepage berm, and other levee improvements along the Sacramento River's east levee in Sacramento, California. Levee improvements to address seepage and stability issues (i.e., cutoff walls, levee raises, and seepage/stability berms) would be constructed outside of the natural river channel. However, ground-disturbing activities associated with construction of levee improvements could cause erosion and soil disturbance, and water contamination.

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

- Visual Resources
- Air Quality
- Vegetation and Wildlife
- Special-Status Species
- Climate Change
- Cultural and Tribal Cultural Resources
- Geological Resources
- Hazardous Waste and Materials
- Water Quality and Groundwater Resources
- Noise
- Recreation
- Transportation and Circulation
- Public Utility Service Systems

Of the 13 resources areas noted above, Project components within the Commission's jurisdiction (under the ordinary high-water mark [OHWM] of the Sacramento River) could have significant environmental effects on 12 of the resource areas, as follows:

- Visual Resources
- Air Quality
- Vegetation and Wildlife
- Special-Status Species
- Climate Change
- Cultural and Tribal Cultural Resources
- Geological Resources
- Hazardous Waste and Materials
- Water Quality and Groundwater Resources

- Noise
- Public Utility Service Systems
- Recreation

In certifying the ARCF GRR 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 short-term Visual Resources, short-term Vegetation and Wildlife, and short-term Recreation. 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 site preparation and the installation of rock protection and riparian benches, 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.[2]

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.)

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

There would be no impact to Mineral Resources due to Project implementation.

[2] See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

Impacts to Hydrology, Land Use, Population and Housing, Energy, and Wildfire were found to be less than significant. All other impacts to resource areas within the Commission's jurisdiction are considered potentially significant. The Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified in Table D-1 were determined in the ARCF GRR 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 D-1 identifies those impacts that the CVFPB determined would be significant and unavoidable (SU) after mitigation.

Table D-1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos. (LTSM)	Impact Nos. (SU)
Visual Resources		VIS-2b
Air Quality	AIR-1	
Vegetation and Wildlife	VEG-1a	VEG-1b
Special-Status Species	SSS-1, 2, 4	
Climate Change	GHG-1	
Cultural and Tribal Cultural Resources	CR-3, 4	
Geological Resources	GEO-1	
Water Quality and Groundwater Resources	HWQ-1	
Noise	NOI-1, 2	
Recreation	REC-1a	REC-1b
Public Utility Service Systems	UTL-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.

1. AIR QUALITY

CEQA FINDING NO. AIR-1

Impact: **Impact AIR-1. Adverse Effects on Air Quality from Construction 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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

The Project's maximum daily construction emissions would potentially exceed the Sacramento Metropolitan Air Quality Management District (SMAQMD) thresholds for oxides of nitrogen (NO_x) and particulate matter equal to or less than 10 micrometers in diameter (PM_{10})

The U.S. Army Corps of Engineers (USACE) will require that the construction contractor implements the Sacramento Metropolitan Air Quality Management District's (SMAQMD's) Basic Construction Emission Control Practices and Enhanced Fugitive PM Dust Control Practices. Additional avoidance and minimization measures will be implemented to reduce criteria pollutant emissions, and mitigation measures (payment of fees) will be implemented to reduce air quality impacts to a less than significant level. Implementing MMs AIR-1 through AIR-4 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_x 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. VEG-1a

Impact: **Impact VEG-1a. Long-Term Adverse Effects on Riparian Habitat and Waters of the United States.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Constructing the Project will require removing riparian vegetation within the levee degrade footprint, the top one-third to one-half of the levee. Approximately 2.75 acres of canopy will be removed to enable the construction of the proposed project.

To compensate for riparian habitat removal, replacement habitat will be created in accordance with the 2013 ARCF GRR Fish and Wildlife Coordination Act Report. The mitigation will be implemented at the Beach-Stone Lakes Mitigation Site or other U.S. Fish and Wildlife Service (USFWS)-approved location. Implementing MMs VEG-1 and GEO-1 will reduce or offset the Project's long-term impact on riparian habitat to a less than significant level.

MM VEG-1: Avoid and Minimize Impacts to Riparian Habitat

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.

3. SPECIAL-STATUS SPECIES

CEQA FINDING NO. SSS-1

Impact: **Impact SSS-1. Adverse Effect on Special-Status Plants.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

No special-status plants were observed within the Project site. However, due to the age of the surveys and the potential for changed conditions between 2016 and the start of vegetation removal in late 2023 or construction in 2024, impacts to special-status plants would be potentially significant.

Pre-construction surveys will be conducted to determine the presence of any special-status plants. Surveys will be conducted at an appropriate time of year during which the species are likely to be detected. If special-status plant species are found during pre-construction surveys, the habitat will be marked or fenced as an avoidance area during construction and a buffer established. If special-status plant species cannot be avoided during construction, USACE will coordinate with USFWS and the California Department of Fish and Game (CDFW) to determine additional appropriate measures. These are proven and effective measures for reducing and minimizing impacts to special-status plant species from levee projects in the region. Implementing MM PLANT-1 will reduce or offset the Project's impact to special-status plant species to a less than significant level.

MM PLANT-1: Implement Measures to Protect Special-Status Plants

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

CEQA FINDING NO. SSS-2

Impact: **Impact SSS-2. 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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Because elderberry is a fast-growing plant and focused surveys have not been completed on the entire SREL C4 Project site, for the purposes of impact analysis it is conservatively assumed that up to 5 elderberry shrubs may be removed during construction activities. Elderberry shrub removal will reduce available habitat and could result in direct mortality of valley elderberry longhorn beetle. In addition, construction activities near shrubs could impact valley elderberry longhorn beetles that may be present on the affected shrubs.

USACE will implement USFWS avoidance, minimization, and compensation measures for the valley elderberry longhorn beetle as described in the 2017 Framework for Assessing impacts to the Valley Elderberry Longhorn Beetle and consistent with the federal Endangered Species Act. 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 valley elderberry longhorn beetle. 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. These are all proven and effective measures for reducing and minimizing impacts from levee projects to valley elderberry longhorn beetle habitat and populations in the region. Implementing Mitigation Measure VELB-1 will reduce or offset the Project's impact to valley elderberry longhorn beetle to a less than significant level.

MM VELB-1: Implement Current USFWS Avoidance, Minimization, and Compensation Measures for Valley Elderberry Longhorn Beetle

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

CEQA FINDING NO. SSS-4

Impact: **Impact SSS-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 ARCF GRR 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 could be impacted due to effects of construction activities. Tree removal from construction activities will reduce the amount of habitat available to these species, and active nests could be disturbed or destroyed during construction, causing loss of eggs or young or forcing nest abandonment.

USACE would conduct a worker environmental awareness program training to inform construction personnel about Swainson's hawk and nest sites. Surveys would be conducted following the Swainson's Hawk Technical Advisory Committee 2000 guidelines. For purple martin and white-tailed kite, a survey would be conducted to locate any active nests within 500 feet of construction activities. For other migratory birds, a survey would cover active nests within 100 feet of construction activities. For any active nest found, a protective buffer would be established and implemented, and USACE would have a biologist monitor the nest during project activities. If construction activities that require tree and shrub removal occur during the nesting season, USFWS and CDFW would be consulted to determine the appropriate measures to implement to avoid adverse effects. 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.

4. 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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Emissions from construction equipment and worker vehicles would include carbon dioxide (CO_2) and other "greenhouse gases" (GHGs) that can contribute to climate change. Estimated emissions of GHGs, expressed as CO2 equivalents (CO_2e), would exceed SMAQMD's threshold of 1,100 metric tons CO_2e per year during the estimated construction period.

A GHG emission reduction plan will be implemented. Mitigation will require efficient operation and maintenance 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 real, quantifiable, permanent, verifiable, enforceable, and additional carbon credits to mitigate any CO_2e emissions in excess of 1,100 metric tons per year. Offset projects shall originate inside California, except to the extent that the quality of the offsets, and their sufficiency, can be verified by USACE or SMAQMD. At least 75% of construction waste and demolition debris will be recycled, and at least 20% of the building materials and imported soil will be purchased within 100 miles of the Project site. These are proven and effective measures for reducing and minimizing impacts from GHG emissions on climate change in the region. 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.

5. CULTURAL RESOURCES

CEQA FINDING NO. CR-3

Impact: **Impact CR-3. Potential Damage to or Destruction of Previously Undiscovered Archaeological Sites or Tribal Cultural Resources**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

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

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 presently undocumented archaeological resources and TCRs because appropriate treatment and protection measures must be implemented consistent with the USACE's Programmatic Agreement. These are proven and effective measures for reducing and minimizing impacts to cultural resources and TCRs from levee projects in the region. Implementing MMs CR-1, CR-2, CR-3, CR-4, and CR-5 will reduce or offset the Project's potential impacts to undocumented archaeological resources and TCRs to a less than significant level.

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

MM CR-2: Prepare an Archaeological Discovery Plan and an Archaeological Monitoring Plan

MM CR-3: Conduct Cultural Resources Awareness Training

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

MM 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

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

CEQA FINDING NO. CR-4

Impact: **Impact CR-4. Damage to or Destruction of Human Remains during Construction.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

The APE and vicinity are known to contain significant precontact archaeological sites, including sites with human burials. Native American human remains could be encountered during earth-moving activities associated with the Project.

Implementing MM CR-6 would reduce the potential for a significant effect resulting from inadvertent damage to or destruction of presently undocumented human remains; 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 National American Heritage Commission, most likely descendant, and landowners, in compliance with California Health and Safety Code Section 7050 et seq. and PRC Section 5097.9 et seq. Implementing MM CR-6 will reduce the Project's potential impacts related to damage or destruction of human remains to a less than significant level.

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

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

6. GEOLOGICAL RESOURCES

CEQA FINDING NO. GEO-1

Impact: **Impact GEO-1. Potential Temporary Short-term Construction-related Erosion.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

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

USACE will obtain coverage under the State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) stormwater permit for general construction activity (Order 2009-0009-DWQ), including preparation and submittal of a project-specific Stormwater Pollution Prevention Plan (SWPPP). All workers will be properly trained on requirements and procedures to properly install and maintain Best Management Practices (BMPs) specified in the SWPPP. These are proven and effective measures for reducing and minimizing impacts from temporary construction-related impacts from levee projects on erosion in the region. 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.

7. WATER QUALITY AND GROUNDWATER RESOURCES

CEQA FINDING NO. HWQ-1

Impact: **Impact HWQ-1. 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.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the SREL C4 Project improvements include potential dewatering to facilitate construction activities (e.g., removing groundwater that may fill trenches dug for cutoff wall construction) that could result in erosion and/or release of sediment into surface or groundwater. Excavation could extend to a depth that will expose the water table, creating an immediate and direct path to groundwater that could allow contaminants to enter the groundwater system and indirectly affect water quality. Soil that is displaced during jet grouting will be piped into drying beds or containment cells with impermeable liners located in the staging area for later disposal. Damage to these drying beds could release sediment into surface or groundwater. Lastly, earthmoving activities associated with overall project construction could result in erosion or siltation. Construction activities, including use of waterside staging areas, will employ heavy equipment, cranes, compactors, and other construction 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.

USACE will obtain coverage under the SWRCB NPDES stormwater permit for general construction activity (Order 2009-0009-DWQ), including preparation and submittal of a project-specific SWPPP. All workers will be properly trained on requirements and procedures to properly install and maintain BMPs specified in the SWPPP. Additionally, before discharging any dewatered effluent to surface water, the Project Partners will obtain a Low Threat Discharge and Dewatering NPDES permit or an Individual Permit from the Central Valley Regional Water Quality Control Board if the dewatering is not covered under the NPDES Construction General Permit. These are proven and effective measures for reducing and minimizing impacts from temporary construction-related impacts

from levee projects on erosion in the region. Implementing MMs GEO-1 and HWQ-1 will reduce impacts to surface water quality 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

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

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

8. NOISE

CEQA FINDING NO. NOI-1

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

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

The Project would generate construction noise from equipment operation and materials placement. Construction activities will result in temporary, short-term, and intermittent increases of noise for sensitive receptors.

USACE and the CVFPB will require construction contractors to implement measures to avoid and minimize construction noise and vibration on sensitive receptors. Prior to the start of construction, a noise control plan will be prepared to reduce the effects of construction-related noise. These actions include but are not limited to providing notice to nearby residents of the construction zone, displaying notices with information including the contractor(s) phone number(s) and proposed dates and times of construction, scheduling the loudest and most intrusive construction activities during daytime hours, requiring that construction equipment be equipped with noise-muffling devices, and following the City of Sacramento noise ordinance. 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.

CEQA FINDING NO. NOI-2

Impact: **Impact NOI-2. Potential Increase in Ambient Noise Levels or Exposure of Sensitive Receptors to Excessive 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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

The Project would generate construction vibrations from equipment operation and materials placement. Construction activities will result in temporary, short-term, and intermittent increases in vibration for sensitive receptors.

USACE would require construction contractors to implement measures at each work site to avoid and minimize construction vibration effects on sensitive receptors. Prior to the start of construction, a vibration control plan would be prepared and implemented to identify and implement feasible measures to reduce construction vibration, when necessary. These actions could include locating and routing activities to minimize effects on sensitive receptors, pre- and post- construction surveys, and vibration monitoring. These are proven and effective measures for reducing and minimizing impacts from construction-related vibration for levee projects in the region. Implementing MM NOI-1 will reduce significant impacts related to construction vibration 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.

9. RECREATION

CEQA FINDING NO. REC-1a

Impact: **Impact REC-1a. Long-term Changes in Recreational Opportunities during Project Construction Activities.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Garcia Bend Park has been identified as a staging area for the Project. Staging will remove access to some parking areas and to the Garcia Bend boat launch during construction between March and December 2023. Other nearby city parks and boat launch facilities, including Miller Park marina and Cliff's Marina, may have access limited intermittently while construction activities are taking place. Bicycle trails along the Sacramento River Parkway bike path and on-street bicycle routes will require temporary closures and/or detours to accommodate material transport along haul routes and construction.

Long-term effects on recreation will be reduced by restoring access and repairing any construction-related damage to recreational facilities to pre-Project conditions. These are proven and effective measures for reducing and minimizing impacts from construction-related effects. Implementing MM REC-1 will reduce significant long-term impacts related to recreation to a less than significant level.

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

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

10. PUBLIC UTILITY SERVICE SYSTEMS

CEQA FINDING NO. UTL-1

Impact: **Impact UTL-1. Potential Disruption of Utility Service.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

USACE has identified utilities that will be relocated or removed as part of the SREL C4 Project. Although steps will be taken to minimize potential effects to utilities, Project construction activities (including grading and excavation) could inadvertently damage identified and unidentified utility infrastructure and facilities.

USACE will coordinate with utility service providers and consumers to minimize utility interruptions to the maximum extent feasible, and a response plan to address service interruptions will be prepared and implemented to streamline response and shorten the potential duration of outages. These are proven and effective measures for reducing and minimizing impacts from construction-related effects.

MM 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

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 ARCF GRR 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. VISUAL RESOURCES

CEQA FINDING NO. VIS-2b

Impact: **Impact VIS-2b. Temporary and Short-Term 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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Temporary impacts on visual character during construction will be significant due to the presence of equipment and activities including levee degrade and vegetation removal, as identified in the ARCF GRR EIR, with no feasible mitigation to reduce this effect. The Project will temporarily degrade the visual quality of this area of the Sacramento River for residents and recreational users during construction. However, because construction is only anticipated to occur for a single construction season, the reduction in visual quality from construction activities will be short-term and temporary.

It is infeasible to construct the Project without construction crews and large equipment. Screening views of the construction crews and equipment would be extremely costly and induce their own substantial and significant impacts on visual quality. Construction-related activities of this magnitude, which includes extensive numbers of truck hauls on and near the levee necessarily result in visual impacts that cannot be mitigated to a less than significant level. In addition, there are no feasible mitigation measures available to reduce the significant impact on the visual character in these areas during construction. Therefore, this impact would remain significant and unavoidable.

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

2. VEGETATION AND WILDLIFE

CEQA FINDING NO. VEG-1b

Impact: **Impact VEG-1b. Short-Term Adverse Effects on Riparian Habitat and Waters of the United States.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Constructing the Project will require removing riparian vegetation within the levee degrade footprint, the top one-third to one-half of the levee. Approximately 2.75 acres of canopy will be removed to enable the construction of the Project.

To compensate for riparian habitat removal, replacement habitat will be created in accordance with the 2013 ARCF GRR Fish and Wildlife Coordination Act Report. The mitigation will be implemented at the BSLMS or other USFWS-approved location. Implementing MM VEG-1 will reduce or offset the SREL C4 Project's long-term impact on riparian habitat; however, the temporal loss of habitat remains significant and unavoidable because there is no feasible way to replace the lost habitat over the short-term while newly created habitat is growing (i.e., removal of a 100-year-old tree is not immediately replaced by planting additional acreages of substantially younger trees). Therefore, there are no other feasible mitigation measures available to further avoid or reduce this significant and unavoidable impact.

MM VEG-1: Compensate for Riparian Habitat Removal

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

3. RECREATION

CEQA FINDING NO. REC-1b

Impact: **Impact REC-1b. Short-term Changes in Recreational Opportunities during Project Construction Activities.**

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 ARCF GRR EIR and Supplemental EIR.

FACTS SUPPORTING THE FINDING(S)

Garcia Bend Park has been identified as a staging area for the SREL C4 Project. Staging will remove access to some parking areas and to the Garcia Bend boat launch during construction between March and December 2023. Other nearby city parks and boat launch facilities, including Miller Park marina and Cliff's Marina, may have access limited intermittently while construction activities are taking place. Bicycle trails along the Sacramento River Parkway bike path and on-street bicycle routes will require temporary closures and/or detours to accommodate material transport along haul routes and construction.

Short-term effects on recreation will be reduced by preparing and implementing bicycle and pedestrian detours, providing public information regarding detours and alternative access routes to public recreational facilities, and repairing or reconstructing construction-related damage to pre-project conditions. Implementing MM REC-1 will reduce significant short-term impacts related to recreation; however, this impact will remain significant and unavoidable. There are no other feasible mitigation measures available to further avoid or reduce this significant and unavoidable impact.

MM 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

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 ARCF GRR EIR represented a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. The three alternatives included:

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 ARCF GRR 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, an EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the ARCF GRR EIR, Alternative 2 (Recommended Plan) was identified as the Environmentally Superior Alternative under CEQA.

The Supplemental EIR includes only the SREL C4 Project as it only supplements, and does not replace, the ARCF GRR EIR, which conducted an extensive analysis of a range of alternatives, both feasible and infeasible. The Project herein is a refinement of Alternative 2 in the ARCF GRR EIR and would have similar significant and unavoidable impacts after all available and feasible mitigation is applied, as presented in these Findings. Based on the ARCF GRR EIR, the Supplemental EIR, and the entire administrative record, CVFPB made the following Findings with regard to alternatives to the Project:

1. To potentially eliminate or lessen the significance of the SREL C4 Project's significant and unavoidable impacts, the SREL C4 Project would need to be implemented in another location, which is infeasible to address the SREL C4

Project's needs and meet any of the SREL C4 Project's objectives.

2. The social and economic benefits of the SREL C4 Project outweigh the significant and unavoidable effects of the SREL C4 Project because the SREL C4 Project will reduce the long-term risk of flooding for a major portion of the Sacramento metropolitan area that currently has a high risk of flooding.
3. The social and economic benefits of the SREL C4 Project are derived from substantially reducing flood risk over the long-term (50 or more years), whereas the significant and unavoidable environmental impacts are temporary and short-term during the 1-year construction period.
4. None of the alternatives examined in the ARCF GRR Final EIS/EIR, or any other potential alternative for reducing flood risk within the SREL C4 Project area would be a feasible means to avoid or eliminate the remaining significant and unavoidable effects.
5. Alternative 2 as described in the ARCF GRR Final EIS/EIR, while still having significant and unavoidable impacts, has a greater benefit to the environment while meeting most of the SREL C4 Project objectives.
6. The No Action (No Project) Alternative assumes that no work would be completed by USACE, and the City of Sacramento and surrounding areas (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. The No Action Alternative is inconsistent with the objectives of the SREL C4 Project and leaves the area at an unacceptable level of flood risk. The No Action Alternative is not a feasible means to avoid the residual significant and unavoidable effects of the SREL C4 Project and increases the probability of major flooding that would undoubtedly cause substantially greater environmental impacts from the flood clean-up and reconstruction efforts than the residual significant and unavoidable effects of the SREL C4 Project.
7. Since the Board certified the ARCF GRR Final EIS/EIR in April 2016, and selected Alternative 2, USACE and the Board have worked to refine the design for the SREL C4 Project. The SREL C4 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.

Based upon the objectives identified in the ARCF GRR 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 4 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 three resource areas: Aesthetics and Visual Resources, Vegetation and Wildlife, and Recreation (see Table D-2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in the ARCF GRR 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 D-2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Aesthetics and Visual Resources	
Impact VIS-2. Temporary and Short-term Changes in Scenic Vistas and Existing Visual Character	Temporary impacts on visual character during construction will be significant due to the presence of equipment and activities including levee degrade and vegetation removal. With no feasible mitigation to reduce this impact, it would remain significant and unavoidable.
Vegetation and Wildlife	
Impact VEG-1b. Short-term Adverse Effects on Riparian Habitat and Waters of the United States	Construction activities would require the removal of approximately 2.75 acres of canopy within the Project area. Despite the inclusion of MM VEG-1, the temporal loss of habitat remains significant and unavoidable because there is no feasible way to replace the lost habitat over the short-term while newly created habitat is growing.
Recreation	
Impact REC-1b. Short-term Changes in Recreational Opportunities	Staging will remove access to the Garcia Bend boat launch during construction and other nearby city parks and boat launch facilities, including Miller Park marina and Cliff's Marina, may have access limited intermittently while construction activities are taking place. Implementing MM REC-1 will reduce or offset the Project's 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.

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, vegetation and wildlife, and recreation 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 ARCF GRR 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 ARCF GRR 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 ARCF GRR 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.