

Staff Report 26

APPLICANT:

Marin County Flood Control and Water Conservation District

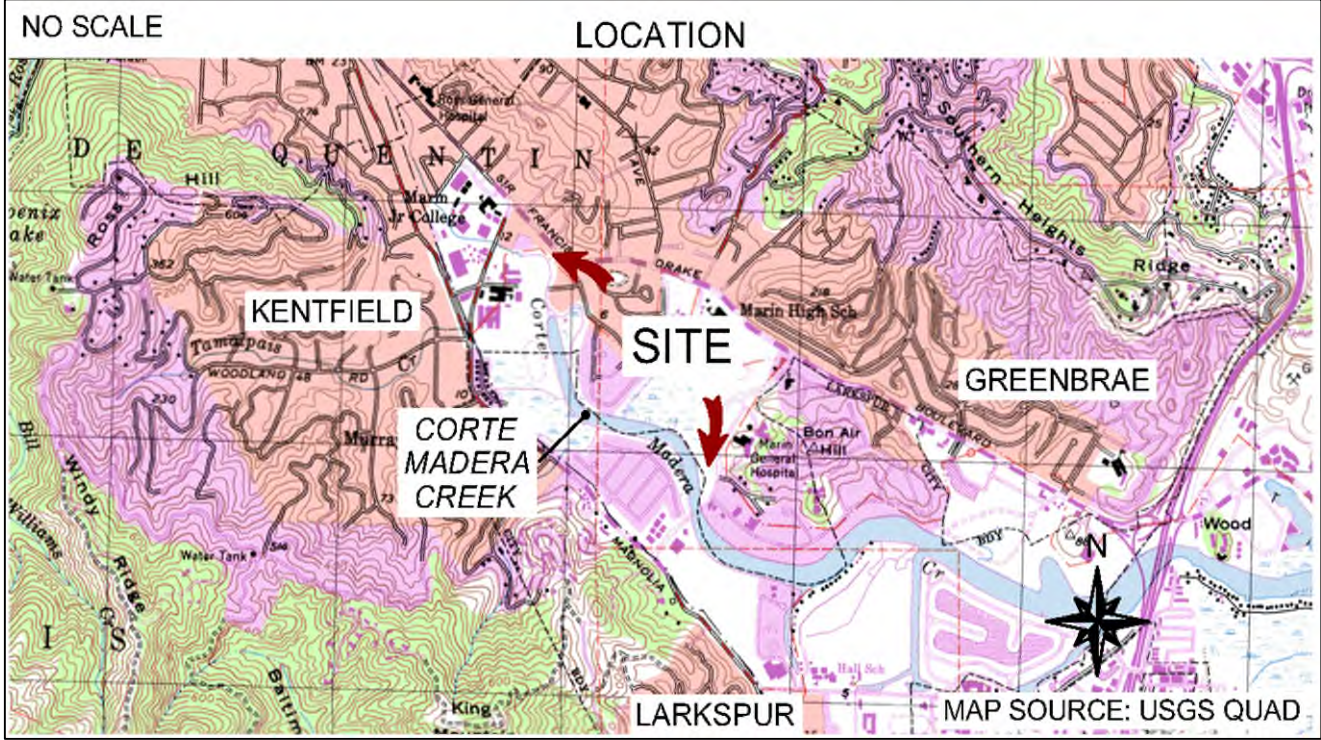
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek from the College Avenue Bridge, near Kentfield, to the Bon Air Bridge, near Larkspur, Marin County (as shown in Figure 1).

Figure 1. Location

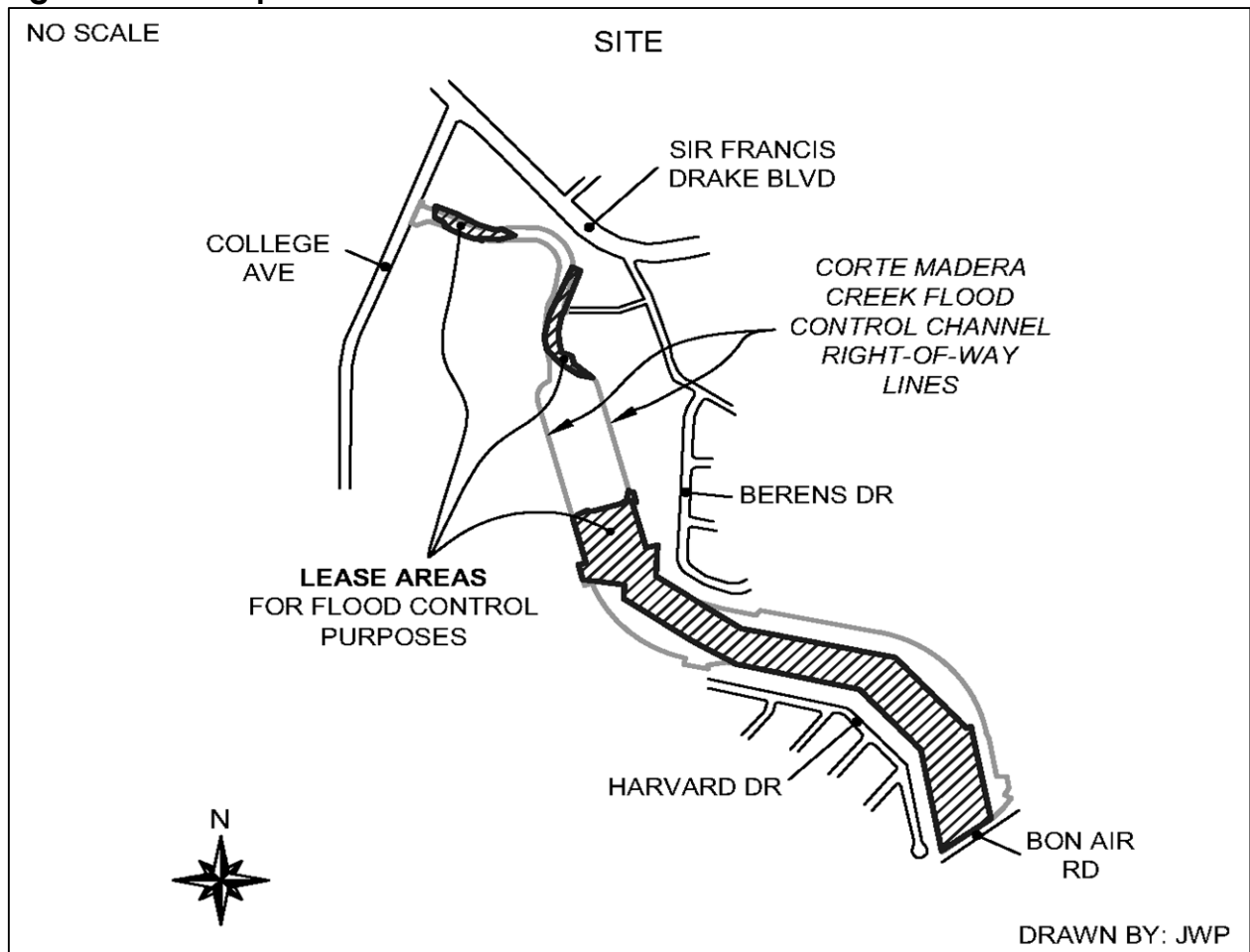


AUTHORIZED USE:

Use of an existing flood control channel, and the construction and use of proposed flood control improvements in Corte Madera Creek for the Corte Madera Creek Flood Risk Management Project Phase 1, including:

- Floodplain expansion and partial removal of short floodwalls downstream of the College Avenue Bridge
- New/modified short floodwalls (approximately 2 to 4 feet tall)
- Removal of a portion of the concrete channel and restoration of tidal wetland and transitional habitat
- Operation of a flood gauge on Bon Air Bridge (as shown in Figure 2)

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

20 years, beginning April 2, 2025.

CONSIDERATION:

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

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount of no less than \$5,000,000 per occurrence or a Commission staff approved self-insurance program.
- Lessee shall not prohibit public access or use of the lease premises for common law Public Trust purposes such as, but not limited to, boating, fishing, hunting, or swimming except during construction for public safety.
- Lessee acknowledges that any changes to the existing or proposed uses authorized in this Lease will require an amendment to the lease.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 25, 1968, the Commission authorized a 49-year Public Agency Permit (Permit) to the Applicant for the construction of a flood control channel within Corte Madera Creek between the College Avenue Bridge and the Bon Air Bridge, Marin County ([Item 4, April 25, 1968](#)). The improvements included a portion of a concrete-lined channel that extends from a fish ladder above the College Avenue Bridge to the downstream earthen channel bed of Corte Madera Creek. That Permit expired on March 31, 2017. The Applicant applied for a General Lease – Public Agency Use for the use of the existing flood channel and for construction of additional flood control improvements in Corte Madera Creek, for the Corte Madera Creek Flood Risk Management Project (Project).

The Project includes raising the height of the existing concrete channel wall on the east bank starting downstream of the College Avenue Bridge. An additional 2-4 feet of height will be added to the existing concrete channel wall.

Immediately downstream of the Stadium Way pedestrian bridge and extending to the downstream end of the existing concrete channel, the exposed portion of the west bank concrete wall will be removed to below the water level. The earthen material behind this existing concrete wall will be graded and contoured to create a low floodplain area with a new more natural vegetated creek bank slope above. The concrete channel bottom will be left in place to support the remaining concrete wall sections.

The Project includes temporary fill of the channel upstream and sheet pile walls downstream of the work area for dewatering the channel during construction. The proposed improvements had a “no-rise” certificate prepared with associated modeling, that was approved by the County of Marin Floodplain Administrator. Construction is tentatively planned for Fall 2025. The project will span the entire width of Corte Madera Creek downstream of the College Avenue Bridge to the end of the concrete channel. Public access to the lease premises during construction will be prohibited for public safety.

Corte Madera Creek is actively used by the public for fishing, boating, and public access. Maintenance of the flood control channel has been ongoing for many years with no reported impacts to the Public Trust uses of the waterway. The flood control channel provides flood protection to the communities in the area and is necessary to protect the overall health and safety of the people living nearby.

The proposed lease includes certain provisions protecting the public, including a limited lease term of 20 years and a non-exclusive use provision. The Lease does not alienate the State’s fee simple interest or permanently impair public rights, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses.

The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee’s activities thereon. The flood control channel will allow the Applicant the ability to manage floods to protect the public.

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 existing flood control channel and the proposed flood control improvements and restoration of tidal wetland and transitional habitat activities are designed and intended to improve flood control in the area. The Project considers future climate change projections for flooding in its design. Collectively, the existing and improved flood control improvements are intended to improve and increase the region's resiliency by serving to offset flooding and other climate change impacts by improving hydrologic function, floodplain connectivity, water quality, habitat and ecosystem function in the Corte Madera Creek. This area is vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise. According to the sea level rise viewer, [Our Coast Our Future](#), some of the lease premises will become permanently submerged with 1.6 feet 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 lease area 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. In addition, as stated in the [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of storms and rain events, causing more flooding in low lying areas. In rivers, creeks, and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, in rivers and

tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The fixed structures, such as the short floodwalls downstream of the College Avenue Bridge, new/modified short floodwalls, portion of the concrete channel, and the flood gauge on Bon Air Bridge may be vulnerable to flooding and will remain at higher risk of damage, degradation, and loss from the combined impacts of sea level rise, storms, and rain events. The [Town of Corte Madera 2020 Climate Action Plan](#) warns that properties along the tributaries to the Creek may be vulnerable to sea level rise. Further, the [Marin Shoreline Sea Level Rise Vulnerability Assessment: Bay Waterfront Adaptation & Vulnerability Evaluation](#) (2017, County of Marin) determined that 78 percent of the parcels in the lease area could experience increased tidal flooding. This would put approximately 1,200 homes at risk along the Creek.

The combination of these projected conditions could increase the likelihood of damage within the lease premises from rising seas and flood events during the term of the lease. While some of the current and future vulnerabilities may be partially reduced by the presence of the Corte Madera Baylands¹, the fixed structures on the lease premises are at low elevation and will likely need reinforcement or replacement in the future to withstand higher levels of flood exposure. In addition, the Creek bank may suffer increased erosion from sea level rise and storm flooding. In the future, if erosion requires modifications to the bank, Commission staff suggest the lessee consider nature-based solutions such as native vegetation to stabilize the sediment. Any future construction or activities on state land would require a separate authorization from the Commission.

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 and adjacent upland (not within the lease area) are located in an area that may be subject to the effects of climate change, including sea level rise.

¹ The [BCDC Corte Madera Baylands Conceptual Sea Level Rise Adaptation Strategy](#), 2013, explains that these wetlands at the mouth of Corte Madera Creek help to reduce wave height and energy from the San Francisco Bay.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the 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 to 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. **Existing Flood Control Channel:** Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

4. **Proposed Corte Madera Creek Flood Risk Management Project, Phase 1 Improvements:** An Environmental Impact Report (EIR), State Clearinghouse No. 2020080353, was prepared for this project by the Marin County Flood Control and Water Conservation District (District) and certified on August 17, 2021. As part of its project approval, the District made a Statement of Facts and Findings and adopted a Mitigation Monitoring and Reporting Program.

Staff has reviewed these documents and prepared an independent Mitigation Monitoring Program (MMP) (attached, Exhibit A) that incorporates the District's document. Staff recommends adoption of Exhibit A by the Commission.

Staff also prepared Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096), which determined that all potential impacts within the Commission's leasing jurisdiction would be less than significant or less than significant with mitigation. Staff recommend the Commission adopt the Findings contained in the attached Exhibit B.

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are significant by nature of their public ownership (as opposed to environmentally significant). Since such a declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

APPROVALS OBTAINED:

- California Department of Fish and Wildlife
- Bay Conservation and Development Commission
- Regional Water Quality Control Board
- U.S. Army Corps of Engineers

EXHIBITS:

- A. Mitigation Monitoring Program
- B. Statement of Findings

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Flood Control Channel: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Proposed Corte Madera Creek Flood Risk Management Project, Phase 1

Improvements: Find that an EIR, State Clearinghouse No. 2020080353, was prepared for this project by the Marin County Flood Control and Water Conservation District and certified on August 17, 2021, and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact have occurred; and, therefore no additional CEQA analysis is required.

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

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

Determine that the project, as approved, will not have a significant effect on the environment.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning April 2, 2025, for a term of 20 years, for the use of an existing flood control channel, and for the construction and use of additional flood control

improvements in Corte Madera Creek; consideration is 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; and liability insurance in an amount no less than \$5,000,000 per occurrence or a Commission staff approved self-insurance program.

2. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvements following construction.

EXHIBIT A
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
CORTE MADERA CREEK FLOOD RISK MANAGEMENT PROJECT, PHASE 1
(A3213, State Clearinghouse No. 2020080353)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Corte Madera Creek Flood Risk Management Project, Phase I (Project). The CEQA lead agency for the Project is the Marin County Flood Control and Water Conservation District.

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 an 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:

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

The lead agency certified an EIR, State Clearinghouse No. 2020080353, adopted a Mitigation Monitoring and Reporting Program (MMRP) for the whole of the Project (see Exhibit A, Attachment A-1), and 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 A-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 A-1, is incorporated by reference in this Exhibit A. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

Exhibit A – CSLC Mitigation Monitoring Program

- Additions to the text of the mitigation measure are underlined>.

Table A-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ¹	Difference Between CSLC MMP and Lead Agency MMRP
3.2-2	3.2-2	None
3.2-3	3.2-3	None
3.3-1	3.3-1a through 3.3-1g	None
3.3-2	3.3-1a, 3.3-1e, 3.3-2a, 3.3-2b	None
3.3-3	3.3-1e	None
3.3-4	3.3-1d, 3.3-2b	None
3.3-6	3.3-1e, 3.3-6	None
3.4-2 and 3.14-1	3.4-2	See addition to MM 3.4-2, below

MM 3.4-2: If evidence of any subsurface archaeological features or deposits are discovered during construction-related earth-moving activities, all ground-disturbing activity in the area of the discovery shall be halted within 50 feet of the find, and the finds shall be protected until they are examined by a qualified archaeologist and Native American Monitor, if requested by a Tribe. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; stone-milling equipment (e.g., mortars, pestles, handstones, milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include building or structure footings and walls and deposits of metal, glass, and/or ceramic refuse. The District shall retain a qualified archaeologist who meets the U.S. Secretary of the Interiors professional qualifications in archaeology to assess the significance of the find and make recommendations for further evaluation and treatment as necessary. A Native American representative from a traditionally and culturally affiliated tribe will be

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

Exhibit A – CSLC Mitigation Monitoring Program

notified and invited to assess the find if the artifacts are of Native American ancestry and determined to be more than an isolated find. If the discovery is in an area below Stadium Way and on lands under the jurisdiction of California State Lands Commission, that agency shall be notified. Any treatments and disposition of any artifacts uncovered under the jurisdiction of the California State Lands Commission must be approved by the California State Lands Commission before the treatment is implemented.

If, after evaluation, a resource is considered a historical resource or unique archaeological resource (as defined in CEQA Guidelines Section 15064.5), or a tribal cultural resource (as defined in PRC Section 21074), all preservation options shall be considered as required by CEQA (see CEQA Guidelines Section 15126.4 and PRC 21084.3), including possible capping, data recovery, mapping, or avoidance of the resource. Treatment that preserves or restores the cultural character and integrity of a tribal cultural resource may include tribal monitoring, culturally appropriate recovery of cultural objects, and reburial of cultural objects or cultural soil. Work in the area may resume, at the direction of the District, upon completion of treatment. An Unanticipated Discoveries Evaluation and Treatment Plan shall be prepared before construction that details the procedures for dealing with unanticipated discoveries, including procedures that would be implemented for such discoveries that cannot be protected in place. The results of the identification, evaluation, and/or data recovery program for any unanticipated discoveries shall be presented in a professional-quality report that details all methods and findings, evaluates the nature and significance of the resources, analyzes and interprets the results, and distributes this information to the public.

ATTACHMENT A-1

**MITIGATION MONITORING AND REPORTING PROGRAM ADOPTED BY
THE MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

Mitigation Monitoring and Reporting Program

Introduction

The Marin County Flood Control and Water Conservation District (District) is the lead agency implementing the California Environmental Quality Act (CEQA) environmental document for the Corte Madera Creek Flood Risk Management Project, Phase 1 (project). The primary goal of the project is to reduce the risk of flooding to provide further protection for life and property along Corte Madera Creek. The District prepared an Environmental Impact Report (EIR) to evaluate the potential for the project to result in significant adverse effects on the physical environment. Four alternatives to the project have been examined in the EIR, including No Project Alternative, Alternative 1: Reduced Footprint – Avoid Frederick Allen Park, Alternative 2: Boardwalk in Frederick Allen Park, and Alternative 3: Reduced Concrete and Increased Natural materials. The District would implement Alternative 1 to the project, which would reduce the project footprint/area of disturbance by avoiding construction in Frederick Allen Park.

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared based on the findings of the EIR and lists the mitigation and minimization measures stated in the EIR that are applicable to Alternative 1. The EIR finds that, with implementation of the mitigation measures, all impacts are reduced to less than significant.

This MMRP is designed to fulfill the requirements of CEQA Guidelines Section 21081.6(a), which requires public agencies to adopt a reporting or monitoring program whenever a project or program is approved that includes mitigation measures identified in an environmental document for which the agency makes a finding pursuant to CEQA Section 21081(a)(1). Therefore, this MMRP must be adopted when the District makes a final decision to adopt Alternative 1.

Table 1 lists each of the EIR mitigation measures and includes the following categories for monitoring and reporting.

1. **Implemented By.** The name of the entity responsible for implementing the mitigation measure.
2. **Implementation Timing.** Most measures are to be implemented prior to, during, or immediately after project construction.
3. **Location.** The area(s) where the mitigation applies
4. **Performance Criteria.** The criteria required to ensure the effectiveness of the mitigation measure in mitigating the impact.
5. **Monitored By.** The name of the person who is responsible for monitoring implementation of the mitigation measure. At this time, the field is blank – it will be completed during implementation.
6. **Verified By.** The signature of the responsible person and date compliance is verified. At this time, the field is blank – it will be completed during implementation.

MITIGATION MONITORING AND REPORTING PROGRAM

Table 1 Mitigation Measures

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
Air Quality							
<p>Impact 3.2-2: The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment under an applicable federal or state ambient air quality standard.</p>	<p>Mitigation Measure 3.2-2: Fugitive Dust Measures. To limit dust, criteria pollutants, and precursor emissions associated with construction, the following BAAQMD-recommended fugitive dust control measures shall be implemented and included in all contract specifications for components constructed under the project:</p> <ul style="list-style-type: none"> • All exposed surfaces (e.g., unpaved parking areas, unpaved staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • Construction equipment shall be properly maintained by a certified mechanic. • A publicly visible sign shall be posted with the telephone number and person to contact at the District regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. 	<ul style="list-style-type: none"> • Entire project area 	<ul style="list-style-type: none"> • BAAQMD fugitive dust control measures are implemented 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
Impact 3.2-3: The project would not expose sensitive receptors to substantial pollutant concentrations.	<p>Mitigation Measure 3.2-3: Engine Controls for Construction Equipment.</p> <p>All off-road equipment greater than 25 horsepower that operates for more than 20 total hours over the entire duration of construction activities shall have engines that meet the USEPA or CARB Tier 3 off-road and Diesel Particulate Filter level 3 emission standards or more stringent standards for all phases of construction except the Lower College of Marin concrete channel removal.</p>	<ul style="list-style-type: none"> Entire project area, except the lower College of Marin concrete channel removal area below Stadium Way 	<ul style="list-style-type: none"> All off-road diesel-powered equipment (more than 25 horsepower) is equipped with engines that achieve U.S. Environmental Protection Agency Tier 3 and Diesel particulate Filter level 3 emissions standards or more stringent. 	<ul style="list-style-type: none"> The District Contractor 	<ul style="list-style-type: none"> During construction 		
Biological Resources							
Impact 3.3-1: The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.	<p>Mitigation Measure 3.3-1a: Avoid Special-Status Plants and Sensitive Natural Communities. Prior to construction, the District shall have a qualified botanist conduct botanical surveys according to CDFW protocols (i.e., Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities [CDFW, 2018 or more current]) during the appropriate time(s) of year (i.e., surveys shall coincide with the phenological stage during which the potential special-status plant species are identifiable in the field—for example, in April and again in July) to determine if any potential special-status plant species or sensitive natural communities are located within or immediately adjacent to the project area. If construction is planned to begin prior to the completion of comprehensive botanical surveys (e.g., construction is planned for April 2022, but plant surveys are planned for April and July), then the District shall conduct comprehensive plant surveys the year prior to construction (e.g., in 2021). If no special-status plants or sensitive natural communities are observed during appropriately timed surveys by a qualified botanist, it is assumed the construction activity will</p>	<ul style="list-style-type: none"> Unit 4; Unit 2 and 3 floodwalls; stormwater pump station; and lower College of Marin 	<ul style="list-style-type: none"> Botanical surveys conducted according to CDFW protocols Avoidance areas Flagged or marked Compensatory mitigation at a minimum 1:1 ratio for unavoidable impacts on special-status plants or natural communities 	<ul style="list-style-type: none"> The District Contractor 	<ul style="list-style-type: none"> Prior to construction During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
	<p>have no impact on special-status plants or sensitive natural communities and no further action is required. Immediately preceding construction, the District shall flag or otherwise mark (e.g., stake, fence) areas with special-status plants or sensitive natural communities within the project area for avoidance, including a 10-foot radius buffer. The District also shall identify locations for equipment and personnel-access and materials staging that will minimize disturbance in riparian habitat and coastal brackish marsh. When heavy equipment is required, unintentional soil compaction shall be minimized by using equipment with a greater reach or using low-pressure equipment. A biological monitor shall be present during construction within a 10-foot buffer of special-status plants to ensure impacts are avoided.</p> <p>If avoidance of any special-status plant is not possible, prior to construction the District shall coordinate with CDFW and/or USFWS to establish procedures for compensatory mitigation. These measures may include collection of seeds when mature (generally the beginning of plant senescence) and salvage and transplant of any special-status plants that would otherwise be impacted by construction activities. Mitigation ratios, location, and timing of transplants shall be determined in consultation with CDFW and/or USFWS, and the mitigation ratio will be at a minimum of 1:1. The District shall monitor the success of transplant establishment for a period of at least three years, or as otherwise required by CDFW and/or USFWS. Location of transplanted individuals shall be recorded using a submeter-accuracy global positioning system (GPS) to enable location of the special-status plant species during and after the monitoring period is complete.</p>						
	<p>Mitigation Measure 3.3-1b: Fish Capture and Relocation. If in-channel work requires dewatering, including for sediment-removal maintenance activities, fish shall be captured and relocated upstream of the</p>	<ul style="list-style-type: none"> • Area where in-channel work requires dewatering 	<ul style="list-style-type: none"> • Use of approved techniques for dewatering and fish relocation 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
	<p>project areas to avoid injury and mortality and minimize disturbance. The District shall implement the measures below and described in the fish rescue plans in Appendix D, or whatever more stringent species-preservation and avoidance measures are imposed by resource agencies, including NMFS and CDFW, with jurisdiction over aquatic special-status species.</p> <ol style="list-style-type: none"> 1. The name(s) and credentials of qualified biologist(s) to act as construction monitors shall be submitted to CDFW and NMFS for approval at least 15 days before construction work begins. 2. Prior to and during the initiation of construction activities, a qualified fisheries biologist (i.e., approved by CDFW and/or NMFS) shall be present during installation and removal of creek-diversion structures. 3. For sites that require flow diversion and exclusion, the work area shall be blocked by placing fine-meshed nets or screens above and below the work area to prevent salmonids from re-entering the work area. To minimize the potential for re-entry, mesh diameter shall not exceed 1/8 inch. The bottom edge of the net or screen shall be secured to the channel bed to prevent fish from passing under the screen. Exclusion screening shall be placed in low-velocity areas to minimize fish impingement against the mesh. Screens shall be checked periodically and cleaned of debris to permit free flow of water. 4. Before removal and relocation on individual fish begins, a qualified fisheries biologist shall identify the most appropriate release location(s). In general, release locations should have water temperatures similar to (<3.6 degrees Fahrenheit difference) the capture location and offer ample habitat (e.g., depth, velocity, cover, connectivity) for released fish and should be selected to minimize the likelihood of reentering the work area or becoming impinged on exclusion nets or screens. 		<ul style="list-style-type: none"> • 				

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Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
	<p>5. The means of capture shall depend on the nature of the work site and shall be selected by a qualified fisheries biologist as authorized by CDFW and NMFS. Complex stream habitat may require the use of electrofishing equipment, whereas in outlet pools, fish and other aquatic species may be captured by pumping down the pool and then seining or dip netting. Electrofishing, if necessary, shall be conducted only by properly trained personnel holding current permits from CDFW and NMFS and following the most recent NMFS electrofishing guidelines (NMFS, 2000).</p> <p>6. Initial fish relocation efforts shall be performed several days prior to the scheduled start of construction and continue through cofferdam installation and work-area dewatering activities.</p> <p>7. Flow diversions and species relocation shall be performed during morning periods. The fisheries biologist shall survey the exclusion screening throughout the diversion effort to verify that no special-status fish, amphibians, or aquatic invertebrates are present. Handling of fish shall be minimized. When handling is necessary, personnel shall wet hands or nets before touching them.</p> <p>8. Prior to translocation, fish that are collected during surveys shall be temporarily held in cool, aerated, shaded water using a five-gallon container with a lid. Overcrowding in containers shall be avoided; at least two containers shall be used, and no more than 25 fish shall be kept in each bucket. Aeration shall be provided with a battery-powered external bubbler. Fish shall be protected from jostling and noise and shall not be removed from the container until the time of release. A thermometer shall be placed in each holding container, and cold blocks or partial water changes shall be conducted as necessary to maintain a stable water temperature. Special-status fish shall not be held more than 30 minutes.</p>						

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	<p>9. If fish are abundant, capture shall cease periodically to allow release and minimize the time fish spend in holding containers.</p> <p>10. Fish shall not be anesthetized or measured. However, they shall be visually identified to species level, and year classes shall be estimated and recorded.</p> <p>11. Reports on fish-relocation activities shall be submitted to CDFW and NMFS in within two weeks following completion of in-channel operations.</p>						
	<p>Mitigation Measure 3.3-1c: Environmental Awareness Training and Site Protection. All construction personnel shall attend an environmental education program delivered by a qualified biologist prior to working in the project area. The training shall include an explanation as how to best avoid the accidental take of special-status species, including salmonids and other fish species, amphibians, reptiles, birds, and rare plants. The training session shall be mandatory for contractors and all construction personnel. The field meeting shall include topics on species identification, life history, descriptions, and habitat requirements during various life stages. Emphasis shall be placed on the importance of the habitat and life-stage requirements within the context of maps showing areas where minimization and avoidance measures are being implemented. The program shall include an explanation of appropriate federal and state laws protecting endangered species and all mitigation measures that will be implemented to avoid significant impacts on special-status species. Each person will receive a training handout for their use and reference.</p> <p>The contractor shall provide closed garbage containers for the disposal of all trash items (e.g., wrappers, cans, bottles, food scraps). Work sites shall be cleaned of litter before closure each day and litter placed in wildlife-proof garbage receptacles. Construction personnel shall not feed or otherwise attract any</p>	<ul style="list-style-type: none"> • Entire project area 	<ul style="list-style-type: none"> • All construction personnel receive environmental training by a qualified biologist 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • Prior to construction • During construction 		

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	wildlife. No pets, excluding service animals, shall be allowed in construction areas.						
	<p>Mitigation Measure 3.3-1d: Avoid Impacts to Special-Status Birds. If tree removal occurs outside of the nesting season, no surveys or monitoring would be needed. If tree removal or construction occurs in the nesting season (February 1 to August 31). If tree removal or construction occurs in the nesting season (February 1 to August 31), a qualified biologist shall conduct a white-tailed kite and general nesting bird survey within the project area and areas within a 500-foot buffer from project construction. If active nests are identified, a no-disturbance buffer zone will be established around the nest as appropriate and in consideration of line-of-sight for the bird as well as existing human presence/activities around the nest when it was established; recommended buffers are 500 feet for white-tailed kite and non-listed raptors, and 25 feet to 250 feet for other non-listed birds as recommended by a biologist who is qualified to assess avian breeding behavior. Smaller buffers may be appropriate in the project area given the limited line of site due to existing development and anthropogenic disturbance in the area (e.g., traffic on Sir Francis Drake and adjoining areas). Construction work may continue outside of the no-work buffer.</p>	<ul style="list-style-type: none"> Unit 4; Unit 2 and 3 floodwalls; stormwater pump station; lower College of Marin 	<ul style="list-style-type: none"> Implement impact-avoidance work windows or conduct pre-construction nesting bird surveys and establish construction buffer zone for impact avoidance 	<ul style="list-style-type: none"> The District Contractor 	<ul style="list-style-type: none"> During construction 		
	<p>Mitigation Measure 3.3-1e: Invasive Plant Species Control. All vehicles and equipment entering the project shall be washed to remove dirt, pathogens, invasive plant seeds, or invasive plant parts prior to entry on the project site. Particular attention shall be shown to the undercarriage and any surface where soil containing invasive plant seeds may exist. The District shall dispose of the waste material in an appropriate disposal facility. Arrangements shall be made for inspection of each piece of equipment before entering the project construction areas to ensure all equipment has been</p>	<ul style="list-style-type: none"> Entire project area 	<ul style="list-style-type: none"> Vehicles and equipment are washed prior to arriving on site Only weed-free seed and revegetation material are used Plants sourced from nurseries certified to implement practices to prevent spread of SOD 	<ul style="list-style-type: none"> The District Contractor 	<ul style="list-style-type: none"> During construction 		

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	<p>properly washed. The District shall follow these additional measures:</p> <ul style="list-style-type: none"> • Any permanent or temporary erosion control measures implemented to minimize erosion during and after construction shall be certified weed-free. • Nursery operations that supply revegetation or seeding plant material must certify implementation of best management practices to reduce pest and pathogen contamination within their nursery, including of Phytophthora pathogens, the pathogen responsible for Sudden Oak Death (SOD). • All tree removal and trimming activities shall include measures to avoid the spread of SOD (Phytophthora) pathogens. This may include, but is not limited to the following: <ul style="list-style-type: none"> – As a precaution against spreading the pathogen, pruning tools shall be cleaned and disinfected after use on confirmed or suspected infested trees or in known infested areas. Tools shall be sanitized before pruning healthy trees or working in pathogen-free areas. Chippers and other vehicles of mud, dirt, leaves, organic material, and woody debris shall be cleaned before leaving a site known to have SOD and before entering a site with susceptible hosts. – Crews shall be informed about the arboricultural implications of SOD and sanitation practices when they are working in infested areas. – Sanitation kits containing chlorine bleach, scrub brush, metal scraper, boot brush, and plastic gloves shall be provided to crews. – Shoes, pruning gear, and other equipment shall be sanitized before working in an area with susceptible species. – When possible, the District shall conduct work on SOD-infested and susceptible species during the dry season (June through October). When working in wet conditions, equipment shall be kept on paved, graveled, or dry surfaces and mud avoided. The 		<ul style="list-style-type: none"> • Tree removal includes practices to avoid spread of SOD 				

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	<p>District shall work in disease-free areas before proceeding to any infested areas.</p> <ul style="list-style-type: none"> - If possible, soil or plant material (wood, brush, leaves, and litter) from host trees in any infested areas shall not be collected. Rather, material (e.g., wood, bark, brush, chips, leaves, or firewood) from tree removals or pruning of symptomatic or non-symptomatic host plants shall remain on site to minimize pathogen spread. - All reasonable methods to sanitize personal gear and crew equipment shall be used before leaving an SOD infested site. Accumulated soil and mud shall be scraped, brushed, and/or hosed off from clothing, gloves, boots, and shoes. Mud and plant debris shall be removed by blowing out or power washing chipper trucks, chippers, bucket trucks, fertilization and soil aeration equipment, cranes, and other vehicles. Movement of soil and leaf litter shall be restricted under and around infected trees as spores may be found there. - Tools used in tree removal/pruning may become contaminated and shall be disinfected with alcohol or chlorine bleach. 						
	<p>Mitigation Measure 3.3-1f: Intertidal Upstream of Stadium Way Cofferdam. Prior to completing construction of the cofferdam near Stadium Way for the Unit 2 dewatering, an inspection of the reach upstream will be conducted to determine if tidal water is present at low tide. A fish removal/herding effort will be initiated if tidal water is present. The fish removal/herding effort will consist of a beach seine sweep beginning at the upstream end of tidal water and proceeding in a downstream direction to the Stadium Way cofferdam site. The impoundment structure could be completed once the sweeping action is downstream of the cofferdam. This action would ensure that estuarine fish would not be stranded in standing water upstream of the Stadium Way cofferdam and be subject to injury or</p>	<ul style="list-style-type: none"> • Stadium Way cofferdam 	<ul style="list-style-type: none"> • Conduct inspection to determine if tidal water is present in area of upstream cofferdam • Initiate fish removal herding effort if tidal water present in area of cofferdam installation 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		

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	mortality during the approximately eight weeks this reach would be cut off from tidal flux.						
	<p>Mitigation Measure 3.3-1g: Avoid Salt Marsh Harvest Mouse. Prior to initiation of project work in potential salt marsh harvest mouse habitat, the areas and pathways to be affected will be flagged by construction personnel and verified by a Qualified Biological Monitor (including work areas, staging areas, and access roads/paths to these work and staging areas). The flagged areas(s) will include a two-foot perimeter buffer.</p> <p>All wetland vegetation and other vegetation within 50 feet of wetland vegetation requiring removal will be removed under the supervision of the USFWS- and CDFW-approved Qualified Biological Monitor. This vegetation will be salvaged and maintained on site and will be replanted upon completion of construction activities. Vegetation removal shall start at the edge farthest from the salt marsh or the poorest habitat and work its way towards the salt marsh or the better salt marsh habitat. If a mouse of any species is observed within the areas being removed of vegetation, work shall be halted and the USFWS and CDFW shall be notified.</p> <p>To prevent salt marsh harvest mice from moving through the project site during construction, temporary exclusion fencing will be placed around defined work area(s) identified by the Qualified Biological Monitor prior to the start of construction activities. The fencing will be installed immediately after vegetation removal, with the two-foot buffer (cleared of vegetation) remaining between fencing and existing vegetation. The fence will consist of silt fencing (or similar material) and will be buried to a minimum depth of two inches so that mice cannot crawl under the fence. Fence height will be at least one foot higher than the highest adjacent vegetation, with a minimum height of two feet. All supports for the exclusion fencing will be placed on the</p>	<ul style="list-style-type: none"> • Lower College of Marin 	<ul style="list-style-type: none"> • Flag potential salt marsh harvest mouse habitat • Qualified Biological Monitor supervises vegetation removal within 50 feet of wetland habitat • Stop work and notify USFW and CDFW if mouse of any species is observed • Install exclusion fencing • Qualified Biological Monitor inspects the exclusion fencing prior to the start of daily construction activities • Cap pipes or similar objects in mouse habitat • Schedule work to avoid extreme high tides 	<ul style="list-style-type: none"> • The District • Constructor • Qualified Biological Monitor 	<ul style="list-style-type: none"> • Prior to construction • During construction • After construction 		

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	<p>inside of the work area. The fencing will be immediately removed upon project completion.</p> <p>Prior to the start of daily construction activities, the Qualified Biological Monitor will inspect the exclusion fencing to ensure that it is functional (e.g., has no rips or tears and remains buried in the ground). The fenced area(s) will also be inspected to ensure that no mice are trapped there. Any mice suspected to be salt marsh harvest mice that are found along and outside the fence will be closely monitored until they move away from the construction area.</p> <p>To prevent potential entrapment of salt marsh harvest mice in work equipment, pipes or similar objects located in salt marsh harvest mouse habitat will be capped prior to the end of the workday and then inspected by the biological monitor prior to commencement of work activities the following day.</p> <p>Work in or immediately adjacent to vegetated marsh areas, as identified by the Qualified Biological Monitor, will be scheduled to avoid extreme high tides because protective cover for mice is limited at this time. Specifically, no work will occur two hours before or after extreme high tides as directed by the Qualified Biological Monitor for 6.0 feet National Geodetic Vertical Datum (NGVD) or above, as measured at the Golden Gate Bridge, or adjusted to the timing of local extreme high-tide events in which the marsh plain is flooded.</p>						
	<p>Mitigation Measure 3.3-1a: Avoid Special-Status Plants and Sensitive Natural Communities (see above)</p>	<ul style="list-style-type: none"> • (see above) 	<ul style="list-style-type: none"> • (see above) 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • Prior to construction • During construction 		
	<p>Mitigation Measure 3.3-1e: Invasive Plant Species Control (see above)</p>	<ul style="list-style-type: none"> • (see above) 	<ul style="list-style-type: none"> • (see above) 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		
<p>Impact 3.3-2: The project would not have a substantial adverse effect on any riparian habitat or other</p>	<p>Mitigation Measure 3.3-2a: Habitat Restoration and Monitoring Plan. The District shall prepare a Habitat Restoration and Monitoring Plan for revegetation prior</p>	<ul style="list-style-type: none"> • Unit 4 • Lower College of Marin 	<ul style="list-style-type: none"> • Habitat Restoration Monitoring Plan implemented to 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • Prior to construction 		

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<p>sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.</p>	<p>to construction activities as detailed herein. The plan shall describe any required salvage and replanting protocols prior to and after construction is complete. The plan shall include, but not be limited to, protocols for replanting of vegetation removed prior to or during construction and management and monitoring of the plants to ensure replanting success pursuant to the most stringent requirements included in permits issued for the project. At a minimum, impacted trees greater than or equal to six inches diameter at breast height (dbh) shall be mitigated at a minimum of 1:1 replacement for nonnative tree species and 3:1 replacement for native tree species. Monitoring and any necessary maintenance of revegetated areas shall occur for a minimum of ten years.</p> <p>The plan shall specify monitoring and performance criteria for the species planted and invasive species control criteria as well as the best time of year for planting and seeding to occur, pursuant to requirements of permits from the various resource agencies with regulatory purview over the project. At a minimum, replanted woody trees and shrubs shall have a minimum of 85% survival after five years of monitoring to track progress toward performance criteria. Additional monitoring shall be conducted if the revegetated areas do not meet the performance criteria in year five; any replacement plants shall be monitored with the same survival criteria for five years after planting.</p> <p>Areas impacted by construction-related activity shall be replanted or reseeded with native trees, shrubs, and herbaceous perennials and annuals from the watershed under guidance from a qualified biologist. Local plant materials shall be used for revegetation of the disturbed area. The plant materials shall include local cuttings from the local watershed or from adjacent watersheds. Seeds shall be collected during the appropriate season, and the container plants shall be of an appropriate size for out-planting.</p>		<p>restore impacted native riparian habitat and native vegetation</p> <ul style="list-style-type: none"> • Trees replaced at a minimum ratio of 1:1 for nonnative trees and 3:1 for native trees • Planted trees and shrubs meet a minimum of 85% survival after 5 years • Wetland and waters are replaced at a minimum ratio of 1:1 • Annual monitoring reports throughout the monitoring period 		<ul style="list-style-type: none"> • During construction • After construction 		

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	<p>The Habitat Restoration and Monitoring Plan shall also address restoration of jurisdictional wetlands and waters. Temporary impacts to wetlands shall be restored on site with native wetland species under guidance from a qualified biologist. Permanent impacts to jurisdictional wetlands shall be mitigated for by replacement on or off site at a minimum 1:1 ratio or whatever more stringent requirements are included in the permits to be issued for the project.</p> <p>The monitoring plan shall include annual monitoring of restored areas for at least five years. The plan shall contain vegetation management protocols, protocols for monitoring replanting success, and an adaptive management plan if success criteria are not being met. The adaptive management plan would include interim thresholds for replanting success and alternative management approaches, such as weed control, supplemental watering, or additional replanting to undertake if thresholds are not met.</p>						
	<p>Mitigation Measure 3.3-2b: Tree Mitigation. To mitigate for removal of any native trees in the project area or any trees greater than or equal to 6 inches located within the riparian corridor, the District shall replant trees on site, to the extent possible. The District will identify other suitable locations within the watershed if the project area is not large enough to support the replacement of all trees required for mitigation. If suitable mitigation sites are not located within the watershed, then additional sites will be identified within the County or beyond. All mitigation sites shall be coordinated with and approved by CDFW. The District may contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code to the extent allowed by CDFW. Mitigation ratios shall be developed in coordination with CDFW and the Town of Ross and shall vary according to both the type of tree impacted (i.e., tree species, whether or not the impacted tree is</p>	<ul style="list-style-type: none"> • All areas where tree removal is required 	<ul style="list-style-type: none"> • Tree Mitigation Plan implemented • Tree removal plan complies with Town of Ross and Marin County’s tree removal requirements and CDFW tree replacement ratio requirements • CDFW approval for tree mitigation plan 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • Prior to construction • During construction • After construction 		

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	<p>native to California or nonnative, and tree size) and the location of the mitigation planting (i.e., trees planted outside of the watershed may be subject to higher mitigation ratios). Impact mitigation ratios shall be a minimum of 1:1 for nonnative tree species to 3:1 for most native tree species or on a trunk-diameter basis per the Town of Ross Municipal code (i.e., 1:1 trunk diameter for trees in good or excellent condition [e.g., one 21-inch tree removed in good condition shall be replaced by new trees totaling 21-inch trunk diameter], 3:1 trunk diameter for trees in fair or marginal condition [e.g., one 21-inch tree removed in fair condition shall be replaced by new trees totaling 7-inch trunk diameter], and trees in poor condition shall be replaced with tree[s] totaling two inches in truck diameter), whichever is greater. Impact mitigation ratios for oak trees are expected to range from 4:1 (for impacted oak trees that are 5 to 10 inches dbh) to 5:1 (for impacted oak trees that are 10 to 15 inches dbh) and 15:1 (for impacted oak trees greater than 15 inches dbh).</p> <p>The District shall prepare a detailed Tree Mitigation Plan and obtain approval from CDFW for the Tree Mitigation Plan. Replacement oaks shall come from nursery stock grown from locally sourced acorns or from acorns gathered locally, preferably from the same watershed in which they are planted. The trees should be able to survive the last two years of the minimum five-year monitoring period without supplemental irrigation. If at any time the District identifies additional trees that need to be removed, the District shall first get written approval from CDFW, RWQCB, and the Town of Ross and the District shall revise the final plan to include additional tree plantings in accordance with agency-approved mitigation ratios. Based on final total of trees impacted by the project, the plan shall include the details of the number and species of trees to be planted, specific planting locations, maintenance and irrigation needs, monitoring requirements (i.e., five years monitoring plant vigor and growth), reporting</p>						

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	requirements, and success criteria to be met before monitoring is concluded (e.g., survival rates, assessment of “good” overall tree vigor, and tree viability without irrigation). The plan shall be submitted to resource agencies for review and approval prior to implementation.						
Impact 3.3-3: The project would not have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, and coastal) through direct removal, filling, hydrological interruption, or other means.	Mitigation Measure 3.3-1e: Invasive Plant Species Control (see above)	<ul style="list-style-type: none"> • See above 	<ul style="list-style-type: none"> • See above 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		
Impact 3.3-4: The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.	Mitigation Measure 3.3-1d: Avoid Impacts to Special-Status Birds and Mitigation Measure 3.3-2b: Tree Mitigation (see above)	<ul style="list-style-type: none"> • See above 	<ul style="list-style-type: none"> • See above 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		
Impact 3.3-6: The project would not introduce a new non-native or	Mitigation Measure 3.3-1e: Invasive Plant Species Control (see above)	<ul style="list-style-type: none"> • See above 	<ul style="list-style-type: none"> • See above 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • During construction 		

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invasive species of plant or animal into an area.	<p>Mitigation Measure 3.3-6: Invasive Aquatic Species Control. All heavy equipment that has operated in waters outside of the Corte Madera Creek watershed shall be steam-cleaned and inspected prior to entering the project area. Any in-channel equipment that could be used in other water bodies will be decontaminated following the completion of the project. In addition, all waders, wading boots, block nets, dip nets, and buckets used within Corte Madera Creek will undergo decontamination. Decontamination protocols will include:</p> <ul style="list-style-type: none"> • Freeze equipment/gear for a minimum of 8 hours at temperatures at 26°F (-3°C) or below. • Soak equipment/gear in a bath of hot water (at least 120°F, 46°C) for 10 minutes. • Soak equipment/gear in a bath of a disinfectant containing quaternary ammonium compounds (QAC) (e.g., Quat 4, Quat 128, Super HDQ Neutral, etc.) for 10 minutes. The QAC-containing disinfectant should be diluted with water at a rate to achieve a minimum active QAC concentration of 0.4%. Six (6) ounces of disinfectant to gallon of water can be used as a disinfectant to water ratio (1:21). After removal from the bath, rinse equipment/gear thoroughly with tap water. 	<ul style="list-style-type: none"> • Entire project area 	<ul style="list-style-type: none"> • All heavy equipment that has operated in waters outside of the Corte Madera Creek watershed is inspected prior to entering the project area • In-channel equipment that could be used in other water bodies is decontaminated according to decontamination protocols 	<ul style="list-style-type: none"> • Contractor 	<ul style="list-style-type: none"> • During construction 		
Cultural Resources							
Impact 3.4-2: The project could cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	<p>Mitigation Measure 3.4-2: Inadvertent Discoveries of Archaeological Resources.</p> <p>If evidence of any subsurface archaeological features or deposits are discovered during construction-related earth-moving activities, all ground-disturbing activity in the area of the discovery shall be halted within 50 feet of the find, and the finds shall be protected until they are examined by a qualified archaeologist. Prehistoric</p>	<ul style="list-style-type: none"> • Entire project area • Area below Stadium Way 	<ul style="list-style-type: none"> • Stop work within 50 feet of a find • Finds are protected and examined by qualified archaeologist • Implement specified procedures to avoid 	<ul style="list-style-type: none"> • This District • Qualified archaeologist • Contractor • Native American representative • State Lands Commission 	<ul style="list-style-type: none"> • During construction 		

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	<p>archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; stone-milling equipment (e.g., mortars, pestles, handstones, milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include building or structure footings and walls and deposits of metal, glass, and/or ceramic refuse. The District shall retain a qualified archaeologist who meets the U.S. Secretary of the Interiors professional qualifications in archaeology to assess the significance of the find and make recommendations for further evaluation and treatment as necessary. A Native American representative from a traditionally and culturally affiliated tribe will be notified and invited to assess the find if the artifacts are of Native American ancestry and determined to be more than an isolated find. If the discovery is in an area below Stadium Way and on lands under the jurisdiction of California State Lands Commission, that agency shall be notified. Any treatments and disposition of any artifacts uncovered under the jurisdiction of the California State Lands Commission must be approved by the California State Lands Commission before the treatment is implemented.</p> <p>If, after evaluation, a resource is considered a historical resource or unique archaeological resource (as defined in CEQA Guidelines Section 15064.5), or a tribal cultural resource (as defined in PRC Section 21074), all preservation options shall be considered as required by CEQA (see CEQA Guidelines Section 15126.4 and PRC 21084.3), including possible capping, data recovery, mapping, or avoidance of the resource. Treatment that preserves or restores the cultural character and integrity of a tribal cultural resource may include tribal monitoring, culturally appropriate recovery of cultural objects, and reburial of cultural objects or cultural soil. Work in the area may resume, at the direction of the</p>		<p>adverse effects to cultural resources</p> <ul style="list-style-type: none"> • Native American representative is notified and invited to assess finds of Native American ancestry • California State Lands Commission is notified of discovery within the jurisdiction of State Lands Commission 				

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	<p>District, upon completion of treatment. <u>An Unanticipated Discoveries Evaluation and Treatment Plan shall be prepared before construction that details the procedures for dealing with unanticipated discoveries, including procedures that would be implemented for such discoveries that cannot be protected in place.</u> The results of the identification, evaluation, and/or data recovery program for any unanticipated discoveries shall be presented in a professional-quality report that details all methods and findings, evaluates the nature and significance of the resources, analyzes and interprets the results, and distributes this information to the public.</p>						
Geology and Soils							
<p>Impact 3.6-1: The project could directly or indirectly cause potential substantial adverse effects, including the risk or loss, injury, or death involving:</p> <ul style="list-style-type: none"> i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault. Refer to Division of Mines and Geology Special Publication 42. ii. Strong seismic ground shaking. iii. Seismic-related ground failure, including liquefaction. iv. Landslides. 	<p>Mitigation Measure 3.6-1: Geotechnical Investigation Report</p> <p>The District shall have a professional geotechnical engineer conduct a geotechnical investigation to evaluate the potential for geotechnical hazards to occur on-site in accordance with the recommendations of the California Geological Survey. The Geotechnical Investigation Report shall provide site-specific recommendations for structures (e.g., floodwalls, fish pools, and stormwater pump station), work areas, and access routes where there is an elevated risk of geologic hazards. The Geotechnical Investigation Report shall be incorporated into the final project design of the retaining walls and floodwalls. The Geotechnical Investigation Report shall specify exact design coefficients that are needed by structural engineers to determine the type and sizing of structural materials. The Geotechnical Investigation Report shall be subject to performance criteria imposed by the California Building Code, as applicable. The Geotechnical Investigation Report shall be prepared by a registered civil engineer or certified engineering geologist and include appropriate measures to minimize seismic</p>	<ul style="list-style-type: none"> • Entire project area 	<ul style="list-style-type: none"> • Conduct site-specific geotechnical investigation • Implement geotechnical recommendations to address risk of seismicity 	<ul style="list-style-type: none"> • The District • Geotechnical engineer • Contractor 	<ul style="list-style-type: none"> • Prior to construction • During construction 		

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Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
	hazards and ensure structural safety of the proposed structures.						
Noise							
Impact 3.10-1: The project could result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	<p>Mitigation Measure 3.10-1: Construction Noise Reduction Plan. The District would adhere to this requirement and develop a construction noise reduction plan in compliance with local regulations to include measures to reduce construction noise impacts. These measures shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> 1. Distribute to the potentially affected residences and other sensitive receptors within 200 feet of project construction boundary a “hotline” telephone number, which shall be attended during active construction working hours, for use by the public to register complaints. The distribution shall identify a noise-disturbance coordinator who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints and institute feasible actions warranted to correct the problem. All complaints shall be logged noting date, time, complainant’s name, nature of complaint, and any corrective action taken. The distribution shall also notify residents adjacent to the project area of the construction schedule. 2. All construction equipment shall have intake and exhaust mufflers recommended by the manufacturers thereof. Further, pavement breakers and jackhammers shall also be equipped with acoustically attenuating shields or shrouds recommended by the manufacturers thereof. In lieu of or in the absence of manufacturers’ recommendations, the Director of Public Works shall have the authority to prescribe such means of accomplishing maximum noise attenuation as he 	<ul style="list-style-type: none"> • Unit 4 • Stormwater Pump Station 	<ul style="list-style-type: none"> • Noise reduction measures implemented to reduce noise levels • Nearby residents notified regarding noise activities and impacts 	<ul style="list-style-type: none"> • The District • Contractor 	<ul style="list-style-type: none"> • Prior to construction • During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
	<p>deems to be in the public interest, considering the available technology and economic feasibility.</p> <p>3. Maintain maximum physical separation between noise sources (construction equipment) and sensitive noise receptors. Separation may be achieved by locating stationary equipment to minimize noise impacts on the community.</p> <p>4. Impact tools (e.g., jack hammers) used during construction activities will be hydraulically or electrically powered where feasible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used.</p> <p>5. Use construction noise barriers such as paneled noise shields, barriers, or enclosures adjacent to noisy stationary equipment such as generators, air compressors, jackhammers, etc. Noise control shields shall be made featuring a solid panel and a weather-protected, sound-absorptive material on the construction-activity side of the noise shield.</p>						
Transportation and Circulation							
<p>Impact 3.13-1: The project could conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.</p>	<p>Mitigation: Mitigation Measure 3.13-1: Traffic Management</p> <p>Prior to initiation of construction, the Project contractor(s) shall use a qualified traffic engineer to prepare a Traffic Management Plan (TMP). The TMP shall be developed on the basis of detailed design plans. The TMP shall be reviewed and approved by the District and agencies with jurisdiction over roadways affected by project construction activities prior to construction. Once approved, the TMP shall be incorporated into the contract documents specification. The TMP shall include, but not necessarily be limited to, the elements listed below:</p>	<ul style="list-style-type: none"> • Entire project area 	<ul style="list-style-type: none"> • TMP prepared • Traffic control measures including detours implemented • Traffic control devices installed • Comply with roadside safety protocols • Emergency vehicle access maintained at all times • Equipment stored in designated areas to avoid obstructing traffic 	<ul style="list-style-type: none"> • Contractor • Qualified traffic engineer 	<ul style="list-style-type: none"> • Prior to construction • During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
	<ul style="list-style-type: none"> • Develop a detour plan that shows the approach to reroute traffic around active work areas, where applicable. • Control and monitor construction-vehicle movements by enforcing standard construction specifications through periodic on-site inspections. • Install traffic-control devices where traffic conditions warrant, as specified in the applicable jurisdiction’s standards (e.g., the California Manual on Uniform Traffic Control Devices; Part 6: Temporary Traffic Control); flaggers would be used, when warranted, to control vehicle movements. • Implement a public information program to notify interested parties of the impending construction activities using means such as print media, radio, and/or web-based messages and information. • Comply with roadside safety protocols to reduce the risk of accidents. • Maintain access for emergency vehicles at all times. Provide advance notification to local police, fire, and emergency service providers of the timing, location, and duration of construction activities that could affect the movement of emergency vehicles on area roadways. • Store all equipment and materials in designated contractor staging areas on or adjacent to the worksite in such a manner as to minimize obstruction to traffic. 						
<p>Impact 3.13-3: The project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).</p>	<p>Mitigation Measure 3.13-1: Traffic Management (see above)</p>	<ul style="list-style-type: none"> • Stormwater Pump Station • Unit 3 Dewatering 	<ul style="list-style-type: none"> • Implement traffic measures to detour or redirect traffic around the work area 	<ul style="list-style-type: none"> • Contractor • Qualified traffic engineer 	<ul style="list-style-type: none"> • Prior to construction • During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

Significant Environmental Impact	Mitigation Measure	Applicable Location	Performance Criteria	Implemented By	Implementation Timing	Monitored By	Verified By (Date and Signature)
Tribal Cultural Resources							
<p>Impact 3.14-1: The project would not cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p> <ul style="list-style-type: none"> i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. 	<p>Mitigation Measure 3.4-2: Inadvertent Discoveries of Archaeological Resources (see Cultural Resources Above)</p>	<ul style="list-style-type: none"> • Entire project area 	<ul style="list-style-type: none"> • Stop work within 50 feet of uncovered archaeological resources • Native American representative is notified and invited to assess finds of Native American ancestry • Treat tribal cultural resources according to PRC 21084 	<ul style="list-style-type: none"> • The District • Qualified archaeologist • Contractor • Native American representative • State Lands Commission 	<ul style="list-style-type: none"> • During construction 		

MITIGATION MONITORING AND REPORTING PROGRAM

EXHIBIT B
CALIFORNIA STATE LANDS COMMISSION
STATEMENT OF FINDINGS
CORTE MADERA CREEK FLOOD RISK MANAGEMENT PROJECT, PHASE 1
(A3213, State Clearinghouse No. 2020080353)

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 to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use to the Marin County Flood Control and Water Conservation District (District) for use of sovereign land associated with the proposed Corte Madera Creek Flood Risk Management Project, Phase I (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines¹, § 15381.) 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 District, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The District analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2020080353) and, on August 17, 2021, certified the EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP) and Findings.

The Project under Commission jurisdiction involves the Project elements within Unit 2 (named after the original U.S. Army Corps of Engineers flood control improvements completed in 1969 in the Corte Madera Creek flood control channel) components such as the partial removal of concrete walls, installation of a temporary access berm and a temporary dam across the channel, contour

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.

Exhibit B – Findings

grading of the left bank, channel widening, and installation of a flood wall on the left bank.

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

- Aesthetics and Visual Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hydrology and Water Quality
- Noise
- Recreation
- Transportation and Circulation
- Tribal Cultural Resources

However, the Final EIR determined that the Project would have less than significant impacts on Geology and Soils as well as Transportation and Circulation resource areas if Alternative 1 was selected. Because the District approved Alternative 1 as the proposed Project, there are no Findings for these two resource areas. Of the 10 resource areas listed above, Project components within the Commission's jurisdiction (i.e., Unit 2 components) could have significant environmental effects on 4 of the resource areas, as follows:

- Air Quality
- Biological Resources
- Cultural Resources
- Tribal Cultural Resources

In certifying the EIR and approving the Project, the District 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 such that the impacts would be less than significant.

As a responsible agency, the Commission complies with CEQA by considering the 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 A 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 Science, 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 certified by the District for the Project identifies 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, 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 fully complies with CEQA.

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

Exhibit B – Findings

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.
- (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.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.

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

A. SUMMARY OF FINDINGS

The EIR did not identify any environmental issue area for which the Project will have no impact.

The EIR subsequently identified the impacts to the following resource areas as Less Than Significant:

- Energy
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials

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

Exhibit B – Findings

- Public Services
- Utilities and Service Systems
- Agriculture and Forestry Resources, Mineral Resources, Land Use and Planning, Population and Housing, Wildfire, and Socioeconomics

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts within CSLC jurisdiction identified in Table B-1 were determined in the Final EIR to be potentially significant absent mitigation. After application of mitigation, however, all impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit A, Attachment A-1.

Table B-1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos. (LTSM)
Air Quality	3.2-2, 3.2-3
Biological Resources	3.3-1, 3.3-2, 3.3-3, 3.3-4, 3.3-6
Cultural Resources	3.4-2
Tribal Cultural Resources	3.14-1

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The impacts identified below were determined in the EIR to be potentially significant absent mitigation; however, the impacts were determined to be less than significant with mitigation (LTSM).

1. AIR QUALITY

CEQA FINDING NO. 1

Impact: **3.2-2: Criteria Pollutant Emissions.**

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

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the generation of fugitive dust emissions that could exceed air quality standards. As detailed in the EIR, implementing MM 3.2-2 will reduce the impacts from criteria pollutant emissions to a less than significant level.

MM 3.2-2: Fugitive Dust Measures

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

CEQA FINDING NO. 2

Impact: **3.2-3: Emission of Toxic Air Contaminants.**

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.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in exposing sensitive receptors to toxic air contaminants, including diesel particulate matter emissions . As detailed in the EIR, implementing MM 3.2-3 will reduce the Project's air quality pollution by requiring that all off-road diesel-powered equipment (more than 25 horsepower) would be equipped with engines that achieve U.S. Environmental Protection Agency Tier 3 and Diesel Particulate Filter level 3 emissions standards to reduce the impacts to a less than significant level.

MM 3.2-3: Engine Controls for Construction Equipment

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

2. BIOLOGICAL RESOURCES

CEQA FINDING NO. 3

Impact: **3.3-1: Impacts on Special-Status Species and Habitats.**

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.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in direct or indirect impacts to candidate, sensitive, or special-status species. As detailed in the EIR, implementing MMs 3.3-1a, 3.3-1b, 3.3-1c, 3.3-1d, 3.3-1e, 3.3-1f, and 3.3-1g will reduce the Project's potential impacts on candidate, sensitive, or special-status species to a less than significant level.

MM 3.3-1a: Avoid Special-Status Plants and Sensitive Natural Communities

MM 3.3-1b: Fish Capture and Relocation

MM 3.3-1c: Environmental Awareness Training and Site Protection

MM 3.3-1d: Avoid Impacts to Special-Status Birds

MM 3.3-1e: Invasive Plant Species Control

MM 3.3-1f: Intertidal Upstream of Stadium Way Cofferdam

MM 3.3-1g: Avoid Salt Marsh Harvest Mouse

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

CEQA FINDING NO. 4

Impact: **3.3-2: Impacts on Riparian Habitat and Sensitive Natural Communities.**

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.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in direct or indirect impacts on riparian habitat or other sensitive natural communities. As detailed in the EIR, implementing MMs 3.3-1a, 3.3-1e, 3.3-2a, and 3.3-2b will reduce the Project's potential impacts on riparian habitat and other sensitive natural communities to a less than significant level.

MM 3.3-1a: Avoid Special-Status Plants and Sensitive Natural Communities

MM 3.3-1e: Invasive Plant Species Control

MM 3.3-2a: Habitat Restoration and Monitoring Plan

MM 3.3-2b: Tree Mitigation

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

CEQA FINDING NO. 5

Impact: **3.3-3: Impacts on Wetlands.**

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.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in direct or indirect impacts to state or federally protected wetlands (including, but not limited to marsh, vernal pool, and coastal). As detailed in the EIR, implementing MM 3.3-1e will reduce the Project's potential impacts on state or federally protected wetlands to a less than significant level.

MM 3.3-1e: Invasive Plant Species Control

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

CEQA FINDING NO. 6

Impact: **3.3-4: Impacts on Wildlife and Aquatic Species Movement.**

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.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to interfere with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. As detailed in the EIR, implementing MMs 3.3-1d and 3.3-2b will reduce the Project's potential impacts on wildlife and aquatic species movement to a less than significant level.

MM 3.3-1d: Avoid Impacts to Special-Status Birds

MM 3.3-2b: Tree Mitigation

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

CEQA FINDING NO. 7

Impact: **3.3-6: Invasive Aquatic Species Introduction.**

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.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to introduce new non-native or invasive species plants or animals into the Project area. As detailed in the EIR, implementing MMs 3.3-1e and 3.3-6 will reduce the Project's potential impacts from invasive aquatic species introductions to a less than significant level.

MM 3.3-1e: Invasive Plant Species Control

MM 3.3-6: Invasive Aquatic Species Control

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

3. CULTURAL RESOURCES

CEQA FINDING NO. 8

Impact: **3.4-2: Impacts on Archaeological 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 EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in an adverse change in the significance of an archaeological resource pursuant to the CEQA Guidelines Section 15064.5. As detailed in the EIR, implementing MM 3.4-2 will reduce the Project's potential impacts on archaeological resources to a less than significant level.

MM 3.4-2: Inadvertent Discoveries of Archaeological Resources

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

4. TRIBAL CULTURAL RESOURCES

CEQA FINDING NO. 9

Impact: **3.14-1: Impacts on 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 EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to change the significance of a tribal cultural resource. As detailed in the EIR, implementing MM 3.4-2 will reduce the Project's potential impacts on tribal cultural resources to a less than significant level.

MM 3.4-2: Inadvertent Discoveries of Archaeological Resources

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

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

- 1) No Project Alternative
- 2) Alternative 1: Reduced Footprint–Avoid Frederick Allen Park

Exhibit B – Findings

- 3) Alternative 2: Maintain Elevation of Bike Route 20 in Frederick Allen Park and No Creek Access
- 4) Alternative 3: Reduced Concrete

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

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the EIR, Alternative 2 - Maintain Elevation of Bike Route 20 in Frederick Allen Park and No Creek Access (with proposed project in other areas) is the environmentally superior alternative to the proposed Project. While Alternative 2 is the environmentally superior alternative, the District approved Alternative 1: Reduced Footprint–Avoid Frederick Allen Park (with proposed project in other areas), since it is capable of achieving the Project objectives and would eliminate significant and adverse impacts of the proposed Project.

The District independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the District's independent judgment as to alternatives. The District found that the Project (Alternative 1) provides the best balance between the Project goals and objectives and the Project's benefits. The other three CEQA alternatives proposed and evaluated in the EIR (No Project, Alternative 2, and Alternative 3) were rejected as being infeasible for reasons provided in the District's Findings Regarding Alternatives (Attachment B-1).

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit A, Mitigation Monitoring Program).

ATTACHMENT B-1
FINDINGS REGARDING ALTERNATIVES

Exhibit B-1

Public Resources Code §21081(a) Finding

Finding 1: The impact would be mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, impacts related to transportation and circulation would be mitigated by implementation of Mitigation Measure 3.13-1, on page 3.13-13 of the EIR. Implementation of Mitigation Measure 3.13-1 would reduce this impact to a less-than-significant level by specifying detour requirements for bicycle and pedestrian traffic, and by using flaggers to direct vehicle and bicycle traffic.

Adopted Mitigation Measure 3.13-1: Traffic Management (see above)

TRIBAL CULTURAL RESOURCES

IMPACT 3.14-1: Impacts on Tribal Cultural Resources

Facts

The EIR found that implementation of Alternative 1 could cause adverse changes to tribal cultural resources. The impact is discussed starting on page 3.14-7 of the EIR.

Public Resources Code §21081(a) Finding

Finding 1: The impact would be mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based the EIR and the entire record, impacts on tribal cultural resources would be mitigated by implementation of Mitigation Measure 3.4-2, on page 3.4-21 of the EIR. Implementation of Mitigation Measure 3.4-2 would reduce this impact to a less-than-significant level by specifying procedures for discoveries of tribal cultural resources at the project site, including notifying a Native American representative of any archaeological find during construction.

Adopted Mitigation Measure 3.4-2: Inadvertent Discoveries of Archaeological Resources (see Cultural Resources above)

VI. PROJECT ALTERNATIVES

A. CEQA Alternatives Analysis

Sections 15126.6(a) and (f) of the State CEQA Guidelines requires that an EIR include “a range of reasonable alternatives to the project, or to the location of the project, which feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any significant effects of the project,” governed by a “rule of reason”. Based on the analysis in the EIR, the project would result in significant and unavoidable impacts related to aesthetic resources. The alternatives to the project were designed to avoid or reduce this significant and unavoidable impact and to further reduce impacts that were found to be less than significant. The Board has reviewed the significant impacts associated with a reasonable range of alternatives as compared with the significant impacts of the project, and also has considered each alternative’s feasibility.

Definition of Feasibility of Alternatives

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site (or if the site already is owned by the proponent). As defined in Section

21061.1 of the Public Resources Code, the term “feasible” means “capable of being accomplished in a successful manner within a reasonable period, taking into account economic, environmental, social, and technological factors.”

B. Findings on Feasibility of Alternatives

The EIR examined four alternatives to the project in Chapter 5, including the No Project Alternative; Alternative 1 – Reduced Footprint – Avoid Frederick Allen Park; Alternative 2 – Boardwalk in Frederick Allen Park; and Alternative 3 – Reduced Concrete and Increased Natural Materials.

1. No Project Alternative

Description of Alternative

The No Project alternative represents the expected future condition if none of the action alternatives are approved, and no change occurs in the current channel configuration. Under the No Project Alternative, the current conditions and flood capacity would remain unchanged. Flood flows would continue to pass outside the channel, onto the floodplain, and would continue to flood residential and commercial areas. The Denil fish ladder would not be replaced under the No Project alternative, and fish passage would not be improved through Corte Madera Creek. Over time, the fish ladder would be likely to degrade. Moreover, the transition point between the natural Unit 4 and concrete-lined Unit 3 stream reaches would remain a constricted section or a flood-flow breakout zone. In Unit 2, the concrete-lined channel below Stadium Way would remain, and marsh habitat that is resilient to climate change would not be established.

Reasons for Rejecting the Alternative

Under the No Project Alternative, the District’s objectives for flood risk reduction in Corte Madera Creek and environmental benefits would not be met. The project’s potential contribution to the overall level of flood risk reduction targets in the Corte Madera Creek watershed would not be realized, meaning that the larger flood control program goals would need to be met some other way. For the foregoing reasons, the No Project Alternative is hereby rejected.

2. Alternative 1: Reduced Footprint – Avoid Frederick Allen Park

Description of Alternative

Alternative 1 would reduce the project footprint/area of disturbance by avoiding construction in Frederick Allen Park. The concrete-lined channel would remain adjacent to Frederick Allen Park, and no construction would occur in the park. To meet the regulatory requirements and objectives for fish passage, four large fish pools would be constructed within the existing concrete-lined channel adjacent to Frederick Allen Park, in addition to the large fish pools that are proposed as part of the project downstream in Unit 3. The fish ladder at the upstream end of Frederick Allen Park still would be removed under Alternative 1. No other modifications would occur to the concrete-lined channel adjacent to Frederick Allen Park. Alternative 1 would include all project elements as described in Chapter 2, except for the Frederick Allen Park enhancements in the Town of Ross. Work within Unit 4, lower Unit 3, and Unit 2, including removal of the fish ladder, would be the same as the project.

Reasons for Approving Alternative 1

This alternative would meet most project objectives. This alternative would achieve flood reduction benefits by reducing the water surface elevation and associated flood risk at 161 homes in Ross Valley. The alternative also would improve fish passage in Corte Madera Creek and would increase tidal wetland habitat by removal of a portion of the concrete-lined channel. Alternative 1 would avoid the significant and unavoidable impact on visual quality from removal of trees at Frederick Allen Park. The Town of Ross has expressed its preference for Alternative 1. This alternative is approved by the District Board.

3. Alternative 2: Boardwalk in Frederick Allen Park

Description of Alternative

Alternative 2 would maintain the existing elevation for Bike Route 20 in Frederick Allen Park. The elevation of Bike Route 20 would be maintained at the current bike path elevation by constructing the multi-use path as a boardwalk, slightly elevated above the Frederick Allen Park floodplain area. The multi-use path would be along the western perimeter of the park and adjacent to the new, approximately 2-foot-tall floodwall. The boardwalk then would meander back to join the existing pathway. The use of a boardwalk would allow the pathway to maintain its current elevation without causing loss of floodplain storage and would allow planting vegetation beneath the boardwalk. Alternative 2 also would differ from the project because it would not include new public access to the creek. New access would be created for creek and flood control maintenance only. Alternative 2 would not modify any project elements outside Frederick Allen Park. Alternative 2 would differ from the project only in the elevation, alignment, and material used to construct the realigned Bike Route 20 in Frederick Allen Park, the location of the maintenance access path, and the removed proposed public access to Corte Madera Creek.

Reasons for Rejecting the Alternative

This alternative would meet all project objectives. However, the project elements in Frederick Allen Park would not be approved by the Town of Ross because of the Town's preference for Alternative 1. The Town of Ross is the property owner of the boardwalk in Frederick Allen Park and has the ability to deny District use of the property. For these reasons, Alternative 2 is hereby rejected.

4. Alternative 3: Reduced Concrete and Increased Natural Materials

Description of Alternative

Alternative 3 would include modification of several project elements, reducing concrete in the project design in favor of natural materials. Alternative 3 would include constructing the retaining wall in Unit 4 and Frederick Allen Park using materials other than concrete, such as rocks or other material, to allow additional planting of vegetative material within the rocks or retaining wall. Alternative 3 also would replace the concrete transition structure at the connection between Units 3 and 4 with quarter- or half-ton rock, to protect the existing sanitary sewer line and stabilize the channel grade without use of concrete. Alternative 3 also would include constructing the additional floodwall segment within lower Unit 2 (downstream from College Avenue), using material such as rock or a soil-type barrier instead of concrete. The natural floodwall would remain on the District's property but would be set back from the existing floodwall.

Reasons for Rejecting the Alternative

This alternative would meet all project objectives. However, the project elements in Frederick Allen Park would not be approved by the Town of Ross. The use of natural materials instead of concrete for the flood control walls in Units 2 and 3 would result in increased tree removal and greater impacts than the project and may not meet the U.S. Army Corps of Engineers' engineering standards for Section 408 authorization. For these reasons, Alternative 3 is hereby rejected.

VII. RECIRCULATION NOT REQUIRED

In the course of responding to comments received during the public review and comment period on the EIR, certain portions of the EIR have been modified, and new amplifying and clarifying information has been added to the Final EIR. As part of the final approval documents for Alternative 1 to the project, the District assessed whether adoption of Alternative 1 would trigger the thresholds for recirculation as identified in Public Resources Code §21092.1 and in Section 15088.5 of the State CEQA Guidelines. As discussed in the Final EIR, the Draft EIR does not need to be recirculated to address Alternative 1.