

**RESOLUTION NO. \_\_\_\_\_**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA,  
ACTING AS THE GOVERNING BOARD OF THE SAN MATEO COUNTY FLOOD  
CONTROL DISTRICT**

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**RESOLUTION:**

- A) MAKING FINDINGS OF FACT AND ADOPTING THE MITIGATION, MONITORING,  
AND REPORTING PROGRAM PURSUANT TO THE PROVISIONS OF THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 FOR THE SAN  
FRANCISQUITO CREEK FLOOD REDUCTION, ECOSYSTEM RESTORATION, AND  
RECREATION PROJECT SAN FRANCISCO BAY TO HIGHWAY 101; AND  
B) AUTHORIZING AN AGREEMENT AMONG THE SAN FRANCISQUITO CREEK  
JOINT POWERS AUTHORITY, THE SANTA CLARA VALLEY WATER DISTRICT,  
THE SAN MATEO COUNTY FLOOD CONTROL DISTRICT, THE CITY OF PALO  
ALTO, THE CITY OF MENLO PARK, AND THE CITY OF EAST PALO ALTO FOR  
FUNDING CONSTRUCTION OF THE SAN FRANCISQUITO CREEK FLOOD  
REDUCTION, ECOSYSTEM RESTORATION, AND RECREATION PROJECT SAN  
FRANCISCO BAY TO HIGHWAY 101**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, acting as the Governing Board of the San Mateo County Flood Control District (District), that

**WHEREAS**, the District is a member of the San Francisquito Creek Joint Powers Authority (SFCJPA); and

**WHEREAS**, San Francisquito Creek (Creek) has a history of flooding, including in the communities in and around East Palo Alto, Menlo Park and Palo Alto; and

**WHEREAS**, the Army Corps of Engineers (Corps), working with the SFCJPA, completed a Reconnaissance Study for San Francisquito Creek which indicated a federal interest in developing a flood control project for San Francisquito Creek thereby allowing the Corps to progress to the Feasibility Study (Study) phase provided a Feasibility Cost Sharing Agreement (FCSA) with a local sponsor was executed; and

**WHEREAS**, the SFCJPA was authorized to be the “Local Sponsor” for the Study and entered into a FCSA with the Corps; and

**WHEREAS**, the FCSA required the SFCJPA to contribute to the Corps, in cash or in-kind services, fifty percent (50%) of the cost of the Corps’ Study as defined in the FCSA; and

**WHEREAS**, the District and the Santa Clara Valley Water District (SCVWD), on behalf of themselves and the other members of the SFCJPA within their respective jurisdictions, entered into a Three Party Funding Agreement with the SFCJPA to provide up to \$1,500,000 each to fund the local share of Study costs prior to the execution of the FCSA; and

**WHEREAS**, the District’s funding contribution of a not-to-exceed amount of \$1,500,000 is being financed from the San Francisquito Creek Flood Control Zone; and

**WHEREAS**, given the inconsistent appropriations from the federal government for the Feasibility Study and associated effects on the Study timeline, the SFCJPA Board authorized the SFCJPA staff to evaluate upstream retention projects and downstream improvement projects that could also receive credit towards the local share of project(s) identified through the Study through Section 104 of the Water Resources Development Act of 1986; and

**WHEREAS**, based on the evaluation of upstream retention and downstream improvement projects, the SFCJPA Board approved the retention of consultants to perform planning and design services and environmental analysis for improvements to

the section of San Francisquito Creek between East Bayshore Road (Highway 101) and the San Francisco Bay as an Initial Capital Project (Project); and

**WHEREAS**, the Board adopted resolutions authorizing execution of an Agreement and two Amendments to provide funding of the planning and design of a project on San Francisquito Creek between Highway 101 and San Francisco Bay with the SFCJPA, the SCVWD, and the District. The District has provided \$566,252 of funding in connection with the Agreement and Amendments for the Project; and

**WHEREAS**, the SFCJPA has completed the design work and the Environmental Impact Report for the Project and construction of the Project should begin later this summer, pending receipt of all required regulatory permits; and

**WHEREAS**, the SFCJPA, including representatives of the cities of Palo Alto, Menlo Park, and East Palo Alto, the SCVWD, and the District, have agreed on the terms of a funding plan to pay for the construction of the Project as contained in the Agreement Among the San Francisquito Creek Joint Powers Authority, the Santa Clara Valley Water District, the San Mateo County Flood Control District, the City of Palo Alto, the City of Menlo Park, and the City of East Palo Alto for Funding Construction of the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project San Francisco Bay to Highway 101(Construction Funding Agreement); and

**WHEREAS**, the District's contribution for the construction of the Project is \$800,000; and

**WHEREAS**, the SFCJPA certified the Final Environmental Impact Report (EIR) for the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project San Francisco Bay to Highway 101 as the Lead Agency under

CEQA in October 2012, and in March 2013, the SFCJPA prepared an Addendum to the Final EIR to evaluate environmental effects associated with longfin smelt, and these documents are available at: <http://sfcjpa.org/web/documents/san-francisquito-creek-jpa/>; and

**WHEREAS**, as a Responsible Agency under CEQA, the District must consider the SFCJPA's EIR and Addendum and make required findings prior to taking action to approve the multi-agency Construction Funding Agreement; and

**WHEREAS**, the Director of Public Works has recommended that this Board make Findings of Fact and adopt the Mitigation, Monitoring, and Reporting Program for the Project pursuant to the provisions of the California Environmental Quality Act of 1970 and execute said Construction Funding Agreement on behalf of the District and this Board concurs in the recommendations of the Director of Public Works.

**NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that:

1. The Final EIR and Addendum have been completed in compliance with CEQA and are adequate for purpose of this Board's consideration of the Project.
2. The Final EIR and Addendum reflect the independent judgment and analysis of the District.
3. Changes have been incorporated into the Project which avoid and/or substantially lessen several of the significant environmental effects identified in the Final EIR.
4. Specific economic, social, and technological considerations make infeasible mitigation for certain significant environmental effects of the Project. Specifically, it isn't feasible to mitigate the following significant environmental effects of the

Project: Violation of an Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation, Exposure of Sensitive Receptors to Substantial Pollutant Concentrations, and Result in Reduced Availability of Existing Recreational Facilities or Uses. However, the Findings of Fact attached hereto, supported by substantial evidence, that establish that the mitigation measures or project alternatives identified in the final EIR are infeasible.

5. The Project will result in the occurrence of the significant effects identified in the Final EIR described above that are not avoided or substantially lessened and the Findings of Fact set forth specific reasons to support approval of the Project based on the Final EIR and/or other information in the records.
6. The Findings of Fact attached hereto and are incorporated by this reference, are supported by substantial evidence in the record.
7. The Mitigation, Monitoring, and Reporting Program (“MMRP”), attached hereto and as included as Appendix F in the Final EIR, and incorporated herein by this reference, is adopted. Implementation of the MMRP is required as a condition of approval of the Project.
8. Consistent with the Public Resources Code, the documents which constitute the record of proceedings for approving this Project are located in the office of the County Manager/ Clerk of the Board of Supervisors, Hall of Justice and Records, 400 County Center, Redwood City, California.
9. The President of the Board of Supervisors is hereby authorized and directed to execute the Agreement Among the San Francisquito Creek Joint Powers Authority, the Santa Clara Valley Water District, the San Mateo County Flood

Control District, the City of Palo Alto, the City of Menlo Park, and the City of East Palo Alto for Funding Construction of the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project San Francisco Bay to Highway 101 on behalf of the San Mateo County Flood Control District, and the Clerk of the Board of Supervisors be, and is hereby, authorized to attest to the President's signature thereon.

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Making Findings of Fact and Statement of Overriding Considerations for the San  
Francisquito Creek Project Final EIR

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS BY  
THE BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF  
CALIFORNIA ACTING AS THE GOVERNING BOARD OF THE SAN MATEO COUNTY  
FLOOD CONTROL DISTRICT REGARDING THE FINAL ENVIRONMENTAL IMPACT  
REPORT FOR THE SAN FRANCISQUITO CREEK FLOOD REDUCTION,  
ECOSYSTEM RESTORATION, AND RECREATION PROJECT - SAN FRANCISCO  
BAY TO HIGHWAY 101

This document presents Findings of Fact (“Findings”) and a Statement of Overriding Considerations by the San Mateo County Flood Control District (“District”) regarding the Final Environmental Impact Report (“EIR”) for the San Francisquito Creek Flood Reduction Project, East Bayshore Road to San Francisco Bay (“Project”), for which the District is acting as the California Environmental Quality Act (“CEQA”) responsible agency. The Findings and Statement of Overriding Considerations presented herein were prepared in compliance with CEQA and the State’s CEQA Guidelines. Substantial evidence supporting all findings made herein is contained in the EIR) and/or the record of proceedings.

If a proposed project would have significant adverse effects on the environment, CEQA requires a responsible agency to prepare findings describing how those effects would be reduced or avoided. Under California Public Resources Code Section 21081[a], several findings are possible.

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

For any significant effects that cannot be avoided or reduced to a less-than-significant level, the responsible agency must describe the reasons why mitigation or adoption of an alternative approach is infeasible (California Public Resources Code Section 21081[a][3]). Adoption of a project that would have significant adverse effects on the environment requires that the lead agency identify the project benefits that are evaluated as outweighing its significant effects on the environment (Public Resources Code Section 21081[b]).

**I. BACKGROUND**

The Project proposes flood reduction facilities along an approximately 1.5-mile stretch of San Francisquito Creek (“Creek”) from East Bayshore Road to the San Francisco Bay. Flooding from the Creek is a common occurrence. A major flood event occurred as a result of record creek flows in February 1998, when the Creek overtopped its banks in several areas, affecting approximately 1,700 residential, commercial, and public structures and causing more than \$28 million in property damages. The maximum instantaneous peak flow recorded during the February 1998 event was 7,200 cubic feet per second (“cfs”) The U.S. Army Corps of Engineers estimates that the 1998 flood was a 45-year flood event. A 100-year flood event<sup>1</sup> is anticipated to result in flows of 9,400 cfs at the mouth of the Creek. These flows would exceed the existing capacity of the Creek (San Francisquito Creek Joint Powers Authority 2009). The Project would increase conveyance capacity of floodwaters from runoff and tides from the bay to protect residents and property from flood events along the lower section of the Creek.

#### A. District’s role in the Project

The San Francisquito Creek Joint Powers Authority (“JPA”) was formed in 1999 following the flood of 1998, is a regional government agency whose members include the Cities of Palo Alto, Menlo Park, and East Palo Alto; the Santa Clara Valley Water District (“SCVWD”), and the District. The JPA plans and implements flood management, ecosystem restoration and recreational enhancements throughout the San Francisquito Creek watershed and floodplain. The District plans to contribute funding to allow the construction of the Project. The SCVWD will manage and oversee the construction contract and be involved in future monitoring and mitigation efforts associated with the Project.

#### B. District’s Role as a Responsible Agency under CEQA.

The JPA, as the lead agency for the Project under CEQA, certified the Final EIR for the Project in October 2012. In March 2013, the JPA prepared an Addendum to the Final EIR to evaluate environmental effects associated with longfin smelt. When the JPA certified the EIR, it also adopted a Mitigation Monitoring and Reporting Program (“MMRP”) and adopted a statement of overriding considerations regarding the impacts that cannot be mitigated to less than significant levels.

The District is a responsible agency for the Project under CEQA since it will provide funding for the Project. As a responsible agency, the District is required to consider the environmental review document prepared by the lead agency and make findings regarding the environmental effects of those parts of the Project that the District decides to carry out, fund or approve.

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<sup>1</sup> The 100-year flood is more accurately referred to as the 1 percent annual exceedance probability flood because it is a flood that has a 1 percent chance of being equaled or exceeded in any single year. A 100-year flood has approximately a 63.4 percent chance of occurring in any 100-year period, not a 100 percent chance of occurring, but conversely could theoretically occur in consecutive years.



### C. District's Review and Consideration of the Final EIR and Addendum

The Final EIR for the Project consists of the Draft EIR (July 2012), the Final EIR (October 2012), and the Addendum (March 2013). These components are collectively referred to as the EIR in the findings.

Prior to taking action on the Project, the District Board fully reviewed and considered the information contained in the record of proceedings. In accordance with PRC § 21167.6(e), the record of proceedings for the District's decision on the Project includes the following documents:

- Notice of Preparation, September 15, 2010;
- Draft EIR (July 2012) and all appendices thereto;
- Final EIR (October 2012) and all appendices thereto;
- Addendum to the EIR (March 2013);
- All written comments received in response to, or in connection with, environmental documents prepared for the Project, including responses to the Notice of Preparation,
- Documents cited or referenced in the Draft EIR and Final EIR;
- All findings adopted by the JPA and the District for the Project;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the JPA or consultants to the JPA with respect to the District's compliance with CEQA and with respect to the District's action on the Project;
- Any recordings of public meetings, public workshops and public hearings held by the District in connection with the Project; and
- Any other materials required for the record of proceedings by Public Resources Code Section 21167.6, subdivision (e).

The Board designates the Clerk of the Board of Supervisors, Hall of Justice and Records, 400 County Center, Redwood City, California, as the custodian of documents and record of proceedings on which the decision was based.

### D. Project Objectives

Protection from the 100-year flood (1percent flood protection) is the currently accepted standard for flood protection works, and the Project is being designed specifically to meet a goal of providing 1 percent flood protection for residents and businesses along the San Francisco Creek corridor. The specific objectives include the following:

- Protect properties and infrastructure between East Bayshore Road and the San Francisco Bay from Creek flows resulting from 100-year fluvial flood flows occurring at the same time as a 100-year tide that includes projected sea level rise through 2067.
- Accommodate future flood protection measures that might be constructed upstream of the Project.

- Enhance habitat along the Project reach, particularly habitat for threatened and endangered species.
- Enhance recreational uses.
- Minimize operational and maintenance requirements.

#### E. Project Description

The Project proposes to increase the Creek's capacity from San Francisco Bay to East Bayshore Road by:

- Excavating sediment deposits within the channel to maximize conveyance.
- Rebuilding levees and relocating a portion of the southern levee to widen the channel to reduce the influence of tides and increase channel capacity.
- Constructing floodwalls in the upper reach to increase capacity and maintain consistency with the California Department of Transportation's (Caltrans) enlargement of the U.S. 101/East Bayshore Road Bridge over the Creek.

Major Project elements include:

- An overflow terrace at marsh elevation adjacent to the Baylands Preserve.
- Levee setback and improvements to widen the channel and increase levee height and stability between East Palo Alto and the Palo Alto Golf Course.
- Floodwalls in the upper reach downstream of East Bayshore Road.
- Extension of Friendship Bridge via a boardwalk across new marshland within the widened channel.

The majority of the Project elements would occur on properties in Palo Alto and East Palo Alto and owned by the City of Palo Alto; or within SCVWD or City of East Palo Alto rights-of-way.

#### F. Scoping and Draft EIR Circulation

The JPA submitted the Notice of Preparation ("NOP") for the Project to the State Clearinghouse on September 15, 2010. Two public scoping meetings were held in September 2010. To reach as many community members as possible, the first meeting (midday Wednesday, September 29, 2010) was held at the East Palo Alto Senior Center in East Palo Alto, and the second meeting (Thursday evening, September 30, 2010) was held at the International School of the Peninsula in Palo Alto. Both meetings were publicized through direct mailings to approximately 11,000 affected and interested households, offices, and agencies.

The JPA circulated the Draft EIR for a 45-day public and agency review period, beginning on July 30, 2012 and concluding on September 13, 2012. The Draft EIR and Notice of Completion were transmitted to the State Clearinghouse on July 30, 2012. Bound hard copies of the Draft EIR were placed on reserve at several public venues,

including the East Palo Alto Public Library, Palo Alto Public Library, and the JPA's offices in Menlo Park. The Draft EIR was also made available in electronic format online, via the JPA's website. Notice of the Draft EIR's availability was e-mailed to interested parties, including adjacent residents and other community members who had requested Project notification. Two public hearings to solicit comments on the Draft EIR were held at 6 p.m. on August 15 and August 29, 2012 at East Palo Alto City Hall (2415 University Avenue) in the East Palo Alto City Council Chambers.

#### G. Final EIR

Based on comments received on the Draft EIR, changes were made to the document and a response was provided for each comment. The Final EIR consists of the following materials: copies of all comments on the Draft EIR received by the JPA; the JPA's responses to those comments; and the complete text of the EIR, including revisions made in response to comments received. The Final EIR and all associated materials in the administrative record are incorporated herein by this reference. The JPA certified the Final EIR on October 25, 2012.

#### H. Addendum to the EIR

Based on comments received from the California Department of Fish and Wildlife ("CDFW") about longfin smelt, an Addendum to the EIR was prepared. The Addendum determined that the Project as proposed, including seasonal restrictions to in-channel work to avoid impacts to steelhead, would not have a significant impact on longfin smelt. The Addendum to the EIR is incorporated herein by this reference. The JPA considered and approved the Addendum on March 18, 2013.

### **II. SIGNIFICANT IMPACTS WHICH CAN BE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL**

The EIR identified a number of potentially significant environmental impacts that, absent the adoption of mitigation measures, could occur with the implementation of the Project. The Proposed Project was considered to have potentially significant impacts on odors, biological resources, paleontological resources, greenhouse gas emissions, hazardous materials and public health, flood hazards, noise and vibrations, and traffic.

The Board finds that, in response to each significant effect identified in the EIR and listed in this section, all feasible changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen these environmental effects. With implementation of the proposed mitigation measures described in the EIR and briefly summarized below, the proposed Project is determined to have less-than-significant impacts on these resources except for impacts on, air quality and recreational facilities, discussed in Section III, below.

The findings regarding the level of impacts and their mitigation are not intended to state all of the substantial evidence in the EIR, or elsewhere in the record, that supports the

conclusions stated in these findings. In addition, the mitigation measures are described in an abbreviated fashion; the EIR should be consulted for a complete description of the requirements of these measures.

## A CREATION OF OBJECTIONABLE ODORS

### **Impact**

Project construction activities could generate odors associated with diesel exhaust, paving activities, and other construction-related sources. Odors would be temporary and localized but could still result in disturbance, potentially rising to the level of a significant impact, for all Project elements, especially where construction takes place in close proximity to residences.

### **Mitigation**

Odor impacts would be reduced to less-than-significant levels through *Mitigation Measure AQ2.1—Implement Tailpipe Emission Reduction for Project Construction*, which requires all construction contractors to implement the exhaust Basic Construction Mitigation Measures and Additional Construction Mitigation Measures recommended by the Bay Area Air Quality Management District (BAAQMD) to control exhaust emissions; *Mitigation Measure AQ2.2—Fleet Modernization for Onroad Material Delivery and Haul Trucks during Construction*, which requires that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 19,500 pounds or greater used at the Project site will comply with U.S. Environmental Protection Agency (EPA) 2007 on-road emission standards for particulate matter less than 10 microns in diameter (PM10) and oxides of nitrogen (NO<sub>x</sub>); *Mitigation Measure AQ2.3—Modernization for Directional Drilling Equipment during Construction*, which requires that the contractor's equipment used for directional drilling meet EPA Tier 2 or higher emissions standards, in addition to being outfitted with the best available control technology (BACT) devices certified by the California Air Resources Board (CARB) that achieve emissions reductions no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations; and *Mitigation Measure NV1.3—Designate Construction Noise and Air Quality Disturbance Coordinator to Address Resident Concerns*, which designates a representative to act as construction noise and air quality disturbance coordinator, responsible for resolving construction noise and air quality concerns.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures AQ2.1, AQ2.2, AQ2.3, and NV1.3 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to creation of objectionable odors during construction would be less than significant.

## B. Biological Resources

### **B1 —Disturbance or Loss of Special-Status Plant Populations**

#### **Impact**

For all Project elements, construction activities could damage or remove individuals of the following special-status species with potential to occur in the Project area: Alkali milkvetch, San Joaquin spearscale, Congdon's tarplant, Point Reyes bird's-beak, Hairless popcornflower, Slender-leaved pondweed, California seablite, and/or Saline clover. However, it is unlikely that the Project would have any impact on Slender-leaved pondweed, if it is determined to be present. Substantial loss of individuals of any of these species as a result of construction disturbance (earthwork, staging activities, foot traffic, vehicle traffic, or other activity) or destruction of suitable habitat adjacent to an existing population could result in a significant impact on the species.

#### **Mitigation**

To ensure that significant impacts on special-status plants during Project construction are avoided if possible, and are compensated if they cannot be avoided, the following measures will be implemented: *Mitigation Measure BIO1.1—Conduct Botanical Surveys*, *Mitigation Measure BIO1.2—Confine Construction Disturbance and Protect Special-Status Plants during Construction*, and *Mitigation Measure BIO1.3—Compensate for Loss of Special-Status Plants*.

*Mitigation Measure BIO1.1* requires a qualified botanist to survey suitable habitat in the Project area for special-status plants during the appropriate blooming periods for each species, in accordance with the California Native Plant Society (CNPS) Botanical Survey Guidelines (California Native Plant Society 2001). *Mitigation Measure BIO1.2* would be implemented if it is determined that individuals of identified special-status plant species are present and could be affected by construction traffic or activities. It requires that construction disturbance be confined to the minimum area necessary to complete the work and requires avoidance of adjacent habitat. If deemed necessary by a qualified botanist, a species-appropriate buffer area determined in consultation with agency (California Department of Fish and Wildlife [CDFW] and U.S. Fish and Wildlife Service [USFWS]) staff will be established to protect the special status plants from encroachment and damage during construction by installing temporary construction fencing. *Mitigation Measure BIO1.3* would be implemented if any individuals of listed special-status plants are present and cannot be effectively avoided through implementation of Mitigation Measure BIO1.2. This measure requires that a compensation plan be developed and implemented so that there is no net loss of special-status plants.

#### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO1.1, BIO1.2, and BIO1.3 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project

construction documents (plans and specifications) and a Mitigation Monitoring Plan to ensure their implementation. With these measures in place, impacts related to disturbance or loss of special-status plant populations during construction would be less than significant.

## **B2 - Disturbance, Injury, or Mortality of Western Pond Turtles**

### **Impact**

In the Project area, levee lowering on the right bank, levee raising on the right bank, levee raising on the left bank and levee relocation, construction of the access road on the left bank, and modification to Friendship Bridge have the potential to disturb upland habitat adjacent to the freshwater pond in the Project area and could result in the loss of western pond turtle individuals or nests; this potential for disturbance and loss would represent a significant impact.

### **Mitigation**

Impacts to western pond turtles would be reduced to less than significant by implementing *Mitigation Measure BIO2.1—Develop and Implement Worker Awareness Training*, *Mitigation Measure BIO2.2—Implement Survey and Avoidance Measures to Decrease Disturbance to Western Pond Turtles*, and (if necessary) *Mitigation Measure BIO2.3—Daily Surveys and Monitoring of Construction Activities to Decrease Disturbance to Western Pond Turtles*.

*Mitigation Measure BIO2.1* requires that prior to construction, Worker Awareness Training be conducted to inform construction workers of their responsibilities regarding sensitive environmental resources. *Mitigation Measure BIO2.2* requires that prior to the start of construction activities at Project element sites that could support western pond turtle, a qualified biologist be retained to conduct preconstruction surveys for western pond turtles. If preconstruction surveys identify active nests, the biologist will establish no-disturbance buffer zones in consultation with CDFW. If western pond turtles are found during the pre-construction survey, then *Mitigation Measure BIO2.3* will be implemented, which requires that a qualified biologist be retained to conduct daily surveys for western pond turtles in all suitable habitats in the vicinity of work sites that will be active within the 3 days prior to the onset of site preparation and construction activities with the potential to disturb turtles or their habitat. If a turtle is found during the daily survey, construction in the vicinity of the turtle will not commence until the turtle is removed from the Project area to be relocated to suitable habitat outside of the Project limits per CDFW protocols and permits.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1, BIO2.2, and BIO2.3 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) and a Mitigation Monitoring Plan to ensure their implementation. With these measures in place, impacts related to

disturbance, injury, or mortality of western pond turtles during construction would be less than significant.

### **B3 - Disturbance of Nesting Migratory Birds and Raptors (Excluding Burrowing Owl)**

#### **Impact**

For all Project elements, heavy equipment and human activity during construction would increase noise in the vicinity of the work area, potentially resulting in disturbance of birds nesting and foraging in the area. If occupied nests are present on or adjacent to the construction area, construction activities could result in the abandonment of nests, the death of nestlings, and the destruction of eggs in active nests. Migratory birds, raptors, and their nests are protected under the Migratory Bird Treaty Act and the California Fish and Game Code. Disturbance of nesting migratory birds or raptors thus represents a significant impact.

#### **Mitigation**

Implementation of *Mitigation Measure BIO2.1—Develop and Implement Worker Awareness Training* described above, and *Mitigation Measure BIO3.1—Establish Buffer Zones for Nesting Raptors and Migratory Birds (Excluding Burrowing Owl)* would reduce the potential for impacts on nesting raptors and migratory birds to less than significant.

*Mitigation Measure BIO3.1* requires that prior to the start of construction activities that begin during the migratory bird nesting period (between January 15 and August 31 of any year), a qualified wildlife biologist be retained to conduct a survey for nesting raptors and migratory birds that could nest along the Project corridor; and with the exception of raptor nests, inactive bird nests may be removed. If an active nest is discovered during these surveys, the qualified wildlife biologist will establish a no-disturbance buffer zone around the nest tree or nest in consultation with CDFW, and construction will be stopped if necessary.

#### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1 and BIO3.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) and a Mitigation Monitoring Plan to ensure their implementation. With these measures in place, impacts related to disturbance of nesting migratory birds and raptors (excluding burrowing owl) during construction would be less than significant.

## **B4 - Disturbance of Western Burrowing Owls and Habitat**

### **Impact**

Project elements with potential to affect this species include levee lowering on the right bank, levee raising on the left bank and levee relocation, construction of the floodwall on the left bank, construction of the downstream access road on the right bank, and construction of the upstream access road on the right bank. Construction activities within these Project element sites during the nesting period could result in direct injury or mortality, as well as disturbance impacts related to elevated noise and human presence. Impacts could be significant.

### **Mitigation**

Implementation of *Mitigation Measure BIO2.1—Develop and Implement Worker Awareness Training* described above (western burrowing owl awareness will be included in the preconstruction worker awareness training required for all construction personnel) and *Mitigation Measure BIO4.1—Implement Survey and Avoidance Measures for Western Burrowing Owls Prior to Construction Activities* would reduce this impact to less than significant.

*Mitigation Measure BIO4.1* requires that, prior to any construction activity, a qualified wildlife biologist be retained to conduct seasonally appropriate preconstruction surveys for burrowing owls. If any western burrowing owls are found within 250 feet of the construction footprint, during the survey or at any time during the construction process, CDFW will be notified and work will proceed under CDFW direction. Any necessary buffers will be established in consultation with CDFW.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1 and BIO4.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) and a Mitigation Monitoring Plan to ensure their implementation. With these measures in place, impacts related to disturbance of western burrowing owls and their habitat during construction would be less than significant.

## **B5 - Disturbance of California Clapper Rail and California Black Rail and Habitat**

### **Impact**

Clapper rail and black rail are considered to have a high potential to be present in suitable habitat within and adjacent to the Project area. Disturbance of species and habitat could result from construction activities associated with the following Project elements: levee lowering on right bank, levee raising on right bank, construction of the floodwall on right bank, levee raising on left bank and levee relocation, construction of the floodwall on left bank, modification of Friendship Bridge, and all marshland



restoration Project elements. In addition, maintenance of Project facilities identified as being in or near suitable habitat would have some potential to disturb California clapper rail and California black rail. Thus, construction and maintenance impacts could be significant.

### **Mitigation**

Implementation of *Mitigation Measure BIO2.1—Develop and Implement Worker Awareness Training* described above (California clapper rail and California black rail awareness will be included in the preconstruction worker awareness training required for all construction personnel), *Mitigation Measure BIO5.1—Implement Survey and Avoidance Measures for California Clapper Rail and California Black Rail Prior to Construction Activities*, and *Mitigation Measure BIO5.2—Produce and Implement Habitat Monitoring Plan for Habitat within the Faber Tract Prior to Construction Activities* would reduce disturbance on California clapper rail and California black rail to less than significant.

*Mitigation Measure BIO5.1* states that work activities within 50 feet of California clapper rail habitat will not occur within 2 hours before or after extreme high tides (6.5 feet or above) when the marshplain is inundated. In addition, seasonally appropriate surveys will be conducted by a permitted biologist. During breeding season, if necessary, Project activities occurring within 500 feet of active nests will be postponed until after young have fledged. Outside breeding season, if necessary, no-disturbance buffer will be established, and no work will occur within the buffer until the biologist verifies that California clapper rail or California black rail individuals have left the area. If individuals are routinely observed in the work area, a species avoidance plan will be developed in coordination with USFWS and CDFW. *Mitigation Measure BIO5.2* states that a habitat monitoring plan will be developed and implemented for existing (i.e., pre-Project) habitat within the Faber Tract that will document baseline conditions prior to Project implementation. Plan approval by USFWS and CDFW will be necessary before implementation of activities recommended by the plan.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1, BIO5.1, and BIO5.2 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to disturbance of California clapper rail and California black rail and habitat during construction and operation and maintenance would be less than significant.

## **B6 - Disturbance of Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew and Habitat**

### **Impact**

Construction activities could disturb salt marsh harvest mouse and salt marsh wandering shrew and habitat for the following Project elements: levee lowering on right bank, levee raising on right bank, construction of the floodwall on right bank, levee raising on left bank and levee relocation, construction of the floodwall on left bank, modification to Friendship Bridge, and all marshplain restoration Project elements. In addition, increasing in periodicity of fluvial inputs associated with the levee lowering on right bank could potentially result in habitat changes detrimental to salt marsh harvest mouse and salt marsh wandering shrew.

### **Mitigation**

Implementation of *Mitigation Measure BIO2.1—Develop and Implement Worker Awareness Training* described above (salt marsh harvest mouse and salt marsh wandering shrew awareness will be included in the preconstruction worker awareness training required for all construction personnel), *Mitigation Measure BIO5.2—Produce and Implement Habitat Monitoring Plan for Habitat within the Faber Tract Prior to Construction Activities* (which is described above), and *Mitigation Measure BIO6.1—Implement Survey and Avoidance Measures for Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew Prior to Construction* would reduce these impacts to less than significant.

*Mitigation Measure BIO6.1* requires that construction and maintenance work, including site preparation, be avoided to the extent possible within suitable habitat for these species during their breeding seasons (February 1 to November 30). As work during the species' breeding seasons will be necessary, a species avoidance plan will be developed and implemented in consultation with USFWS and CDFW. In addition, vegetation clearing will be monitored by a permitted biologist, and appropriate measures will be taken if individuals are observed.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1, BIO5.2, and BIO6.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to disturbance of salt marsh harvest mouse and salt marsh wandering shrew and habitat during construction and operation would be less than significant.

## **B7 - Disturbance of California Least Tern and Western Snowy Plover and Habitat**

### **Impact**

Levee lowering on the right bank has potential to disturb California least tern and western snowy plover. Construction activities serving this Project element would occur near suitable habitat for these species and could disturb nesting or foraging individuals that could be present. Disturbance of nesting or foraging California least tern and western snowy plover would be a significant impact. In addition, because California least tern and western snowy plover have potential to occur in habitat in the Faber Tract, flooding from San Francisquito Creek associated with levee lowering on right bank and subsequent habitat alteration could affect these species as well. This habitat alteration could be significant.

### **Mitigation**

Implementation of *Mitigation Measures BIO2.1—Develop and Implement Worker Awareness Training* described above (California least tern and western snowy plover awareness will be included in the preconstruction worker awareness training required for all construction personnel), *Mitigation Measure BIO7.1—Implement Survey and Avoidance Measures for California Least Tern and Western Snowy Plover Prior to Construction Activities*, and *Mitigation Measure BIO5.2—Produce and Implement Habitat Monitoring Plan for Habitat within the Faber Tract Prior to Construction Activities*, described above, would reduce this impact to less than significant.

*Mitigation Measure BIO7.1* requires that construction work, including site preparation, will be avoided to the extent possible within 500 feet of suitable habitat for these species during their breeding seasons. In addition, prior to the initiation of work within 500 feet of suitable habitat (regardless of the time of year), a permitted biologist will be retained to conduct surveys of appropriate habitat for California least tern and western snowy plover and their nests, and Project activities will be postponed or appropriate buffers will be established, if necessary. If individuals are routinely observed in or within 500 feet of the work area or do not leave the work area, a species avoidance plan will be developed in coordination with USFWS and CDFW.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1, BIO5.2, and BIO7.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to disturbance of California least tern and western snowy plover and habitat during construction and operation would be less than significant.

## **B8 - Disturbance of California Red-Legged Frog and San Francisco Garter Snake and Habitat**

### **Impact**

The following Project elements have potential to disturb California red-legged frog and San Francisco garter snake: levee lowering on right bank, levee raising on right bank, and levee raising on left bank and levee relocation. Construction activities for these Project elements would occur near suitable habitat for California red-legged frog and San Francisco garter snake and could disturb individuals that might be present in the uplands and in the ponds. Such an effect could constitute a significant impact.

### **Mitigation**

Implementation of *Mitigation Measures BIO2.1—Develop and Implement Worker Awareness Training* described above (California red-legged frog and San Francisco garter snake awareness will be included in the preconstruction worker awareness training required for all construction personnel) and *Mitigation Measure BIO8.1—Implement Survey and Avoidance Measures for California Red-Legged Frog and San Francisco Garter Snake Prior to Construction Activities* would reduce this impact to less than significant.

*Mitigation Measure BIO8.1* requires that a permitted biologist be retained to conduct a survey of the freshwater ponds and surrounding upland habitat prior to initiation of construction activities in accordance with applicable protocols, and buffer areas and/or a species avoidance plan will be developed in coordination with USFWS and CDFW if needed.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1 and BIO8.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) and a Mitigation Monitor Plan to ensure their implementation. With these measures in place, impacts related to disturbance of California red-legged frog and San Francisco garter snake and habitat during construction would be less than significant.

## **B9 - Disturbance of Steelhead Trout and Suitable Habitat**

### **Impact**

Construction activities for all Project elements would occur near suitable habitat for steelhead trout and could disturb individuals that could be present in San Francisco Creek. Such an effect would be considered a significant impact.

### **Mitigation**

Implementation of *Mitigation Measures BIO2.1—Develop and Implement Worker Awareness Training* (steelhead trout and habitat awareness will be included in the

preconstruction worker awareness training required for all construction personnel) and *Mitigation Measure BIO9.1—Implement Avoidance Measures for Steelhead Trout Prior to Construction Activities* would reduce this impact to less than significant.

*Mitigation Measure BIO9.1* requires that no in-channel construction activities will occur during the steelhead migration period, to reduce the likelihood that steelhead are present during construction activities, and a qualified fisheries biologist, approved by the National Marine Fisheries Service (NMFS), will survey the construction area 1 to 2 days before the Project begins. If no surface water is present in the immediate construction area, fish will not be relocated. If water is present, additional procedures will be implemented to capture and relocate fish as described in the Final EIR.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1 and BIO9.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) and a Mitigation Monitoring Plan to ensure their implementation. With these measures in place, impacts related to disturbance of steelhead trout and suitable habitat during construction would be less than significant.

## **B10 - Disturbance or Loss of Riparian Habitat**

### **Impact**

The only Project element that would affect riparian habitat is channel widening and marshplain creation and restoration in the upper reach of San Francisquito Creek in the Project area. Extensive trimming, pruning, or removal of riparian habitat could represent a significant impact.

### **Mitigation**

Implementation of *Mitigation Measures BIO2.1—Develop and Implement Worker Awareness Training* (described above), *Mitigation Measure BIO11.1—Identify and Protect Riparian Habitats*, and *Mitigation Measure BIO11.2—Restore Riparian Habitat* would reduce impacts to less than significant by replacing any riparian areas permanently impacted.

*Mitigation Measure BIO11.1* requires that a qualified biologist or ecologist be retained to survey and demarcate riparian habitat on or adjacent to the proposed areas of construction in the upper reach of San Francisquito Creek. Riparian areas not slated to accommodate Project construction will be protected from encroachment and damage during construction by installing temporary construction fencing to create a no-activity exclusion zone in accordance with International Society of Arboriculture tree protection zone recommendations and any additional requirements of the resource agencies with jurisdiction. *Mitigation Measure BIO11.2* requires that permanently affected riparian habitat be restored at a mitigation-to-impact ratio of 2:1, and temporarily affected habitat restored at a minimum impact-to-mitigation ratio of 1:1 to ensure no net loss of riparian

habitat in the affected stream reach. A Mitigation Monitoring Plan will be developed in the context of the federal and state permitting processes under the Clean Water Act and California Fish and Game Code, and will include success criteria as specified by the permitting agencies.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1, BIO11.1, and BIO11.2 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) and a Mitigation Monitoring Plan to ensure their implementation. With these measures in place, impacts related to disturbance of or loss of riparian habitat during construction and operation would be less than significant.

## **B11 - Disturbance or Loss of State- or Federally Protected Wetlands**

### **Impact**

Levee and floodwall construction activities would temporarily and permanently affect diked marsh and tidal salt marsh habitat. Additionally, marshplain creation and restoration activities would temporarily affect tidal salt marsh habitat.

### **Mitigation**

Implementation of *Mitigation Measures BIO2.1—Develop and Implement Worker Awareness Training*, which is described above, and *Mitigation Measure BIO12.1—Avoid and Protect Jurisdictional Wetlands during Construction* would minimize impacts on wetlands not within the grading footprint, including the low-flow channel, to less than significant.

*Mitigation Measure BIO12.1* requires that a qualified resource specialist (biologist, ecologist, or soil scientist) clearly identify wetland areas outside of the direct impact footprint with temporary orange construction fencing before site preparation and construction activities begin at each site or will implement another suitable low-impact measure. Construction will not encroach upon jurisdictional wetlands identified by the wetland specialist.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO2.1 and BIO12.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to disturbance of or loss of state- or federally protected wetlands during construction would be less than significant.

## **B12 - Loss of, or Damage to, Protected Trees**

### **Impact**

Construction of all Project elements could damage and/or would remove protected tree species outside of riparian habitat. Damage to protected trees affecting their chances of survival and/or removal of any protected trees would be considered a significant impact. Note that removal of trees in riparian habitat is addressed and compensated separately above.

### **Mitigation**

Implementation of *Mitigation Measure BIO13.1—Transplant or Compensate for Loss of Protected Landscape Trees, Consistent with Applicable Tree Protection Regulations* and *Mitigation Measure BIO13.2—Protect Remaining Trees from Construction Impacts* would reduce this impact to less than significant.

*Mitigation Measure BIO13.1* requires that protected landscape trees slated for removal be transplanted or replaced as appropriate in accordance with a landscape plan. *Mitigation Measure BIO13.2* provides that trees not designated for removal will be protected from damage during construction by the installation of temporary fencing in a manner consistent with International Society of Arboriculture tree protection zone recommendations.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures BIO13.1 and BIO13.2 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to disturbance of, or damage to, protected trees during construction would be less than significant.

## **C. Damage to Significant Paleontological Resources**

### **Impact**

Project construction activities for all Project elements, such as excavations associated with channel widening and floodwall placement, could affect sensitive, previously undisturbed geologic units, potentially unearthing and damaging previously unknown paleontological resources or unique geologic features. According to available geologic maps, such sensitive native sediments may exist on both sides of the channel nearest the upstream portion of the Project area. Any such disturbance could result in a significant impact on sensitive deposits potentially containing paleontological resources. The remainder of the Project site is in areas mapped as artificial fill and artificial levee deposits of varying depth. Should Project-related excavation extend below artificial fill, the Project could result in a significant impact on sensitive deposits underlying the artificial fill potentially containing paleontological resources.

### **Mitigation**

Implementation of *Mitigation Measure Paleo1.1—Conduct a Pre-Construction Paleontological Resources Field Survey and Paleontological Resources Inventory and Evaluation*; *Mitigation Measure Paleo1.2—Conduct Worker Awareness training for Paleontological Resources Prior to Construction*; and *Mitigation Measure CR1.3—Stop Work Immediately if Buried Cultural Resources are Discovered Inadvertently* would reduce impacts on paleontological resources to less than significant level.

*Mitigation Measure Paleo1.1* requires that qualified personnel be retained to conduct a paleontological resources field survey to determine whether significant resources exist, and paleontological resources monitoring will be conducted if necessary. *Mitigation Measure Paleo1.2* requires that prior to the initiation of any site preparation and/or start of construction, all construction workers receive training overseen by a qualified professional paleontologist, to ensure that forepersons and field supervisors can recognize paleontological resources in the event that any are discovered during construction. *Mitigation Measure CR1.3* requires that if paleontological resources are discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with project sponsors as appropriate.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures Paleo1.1, Paleo1.2 and CR1.3 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to significant paleontological resources during construction would be less than significant.

### **D. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment**

#### **Impact**

Individual projects contribute to the cumulative effects of climate change by directly or indirectly emitting greenhouse gases (GHGs) during construction phases. Project operation would not generate any direct long-term, operational emissions, or contribute to indirect emissions. While not established as a construction threshold, construction-related emissions from the Project are slightly above the Bay Area Air Quality Management District's (BAAQMD) 1,100 metric ton operational threshold.

#### **Mitigation**

The BAAQMD's Air Quality Guidelines do not recommend a GHG emission threshold for construction-related emissions. However, they do recommend implementation of best management practices (BMPs) to help control and reduce GHG emissions. Implementation of the BAAQMD's BMPs is therefore required to reduce construction-



related GHG emissions. Impact GHG1 is considered less than significant with implementation of *Mitigation Measure GHG1.1—Implement BAAQMD Best Management Practices for Construction*, which requires use of alternative fueled vehicles, local building materials, and construction waste recycling.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure GHG1.1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to generation of greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment during construction would be less than significant.

## **E. Hazardous Materials and Public Health**

### **E1 - Creation of Hazard through Transport, Use, or Disposal of Hazardous Materials**

#### **Impact**

Construction and maintenance of all Project elements would require the use of hazardous substances such as vehicle fuels, lubricants, and solvents. Improper storage and handling, including spills and releases, could result in exposure of the workers and the general public to toxins and carcinogens, a significant impact. In addition, Periodic activities required to maintain the new Project elements would require the use of vehicle fuels, lubricants, etc., and could also require solvents, paints, paving media, and other substances and would be similar to existing maintenance requirements. As for construction, improper storage and handling, including spills and releases, could result in exposure of the workers and the general public to toxins and carcinogens, a significant impact.

#### **Mitigation**

Implementation of *Mitigation Measure HAZ1.1—Preparation and Implementation of a Spill Prevention, Control, and Countermeasure Plan* and *Mitigation Measure and HAZ1.2—Require Proper Storage and Handling of Potential Pollutants and Hazardous Materials* would reduce this impact to less than significant.

*Mitigation Measure HAZ1.1* requires that the contractor prepare and implement a Spill Prevention, Control, and Countermeasure Plan before any construction activities begin; and *Measure HAZ1.2* requires that the storage and handling of potential pollutants and hazardous materials be in accordance with all local, state and federal laws and other requirements.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures HAZ1.1 and HAZ 1.2 are feasible and will adopt them as described

in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to the transport, use or disposal of hazardous materials, either directly or indirectly, that may have a significant impact on the environment during construction and maintenance would be less than significant.

## **E2 - Exposure of Workers or the Public to Existing Hazardous Materials Contamination**

### **Impact**

Due to current and historic uses of properties adjacent to the Project site, there is a possibility of undocumented soil and/or groundwater contamination that, if disturbed, could impact the Project site. This translates to some risk that construction workers or the public could be exposed to hazardous substances through disturbance during Project construction, potentially constituting a significant impact.

### **Mitigation**

Any impacts would be reduced to a less-than-significant level by implementing *Mitigation Measure HAZ1.1—Preparation and Implementation of a Spill Prevention, Control, and Countermeasure Plan*, which is described above, and *Mitigation Measure HAZ2.1—Stop Work and Implement Hazardous Materials Investigations and Remediation in the Event that Unknown Hazardous Materials Are Encountered* would reduce this impact to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures HAZ1.1 and HAZ2.1 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to exposure of workers or the public to existing hazardous materials contamination during construction would be less than significant.

## **E3 - Generation of Hazardous Emissions/Use of Hazardous Materials within 0.25 Mile of Schools**

### **Impact**

The upstream portion of the Project reach is located within 0.25 mile of the International School of the Peninsula. Because construction would require the use of a variety of hazardous substances, there would be some potential for exposure of students, school employees, and the public to hazardous materials. The same would be true for ongoing maintenance activities. This is a potentially significant impact for all Project elements.

### **Mitigation**

This impact would be reduced to less than significant by implementing *Mitigation Measure HAZ1.1—Preparation and Implementation of a Spill Prevention, Control, and Countermeasure Plan*, which is described above.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure HAZ1.1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to generation of hazardous emissions/use of hazardous materials within 0.25 Mile of schools during construction and maintenance would be less than significant.

## **E4 - Interference with Emergency Response or Evacuation Plan**

### **Impact**

For all Project elements, the presence of construction equipment and vehicles, worker activities, and materials storage would have the potential to impede emergency access to the Project site and/or interfere with emergency evacuation plans. This would also be true for maintenance activities, although to a lesser degree because fewer pieces of equipment and vehicles would typically be involved. This is a potentially significant impact.

### **Mitigation**

Implementation of *Mitigation Measure TT1—Require a Site-Specific Traffic Control Plan*, which requires contractors to develop and implement a traffic control plan for each construction site and would impose similar requirements for maintenance activities, would reduce this impact to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure TT1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to interference with an emergency response or evacuation plan during construction and maintenance would be less than significant.

## **E5 - Breeding or Harborage of Disease Vector Organisms**

### **Impact**

Construction of any of the Project elements has potential to create or expand the potential for mosquito breeding in the Project area, which would be a significant impact.

### **Mitigation**

*Mitigation Measure HAZ8.1—Prevent Mosquito Breeding During Project Construction*, which requires that standing water that accumulates on the construction site be removed within four days (96 hours) and that construction personnel properly dispose of unwanted or unused artificial containers and tires, would reduce this impact to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure HAZ8.1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to breeding or harborage of disease vector organisms during construction would be less than significant.

## **F - Effects on Flood Hazards**

### **Impact**

For all Project elements, water diversions associated with Project construction have the potential to disrupt storm water flows within the Creek during significant storm events. Temporary relocation of storm drains would occur during the dry season. This is a potentially significant impact. In addition, the permanent alteration of storm drainage facilities as a result of new Project facilities (i.e., levees) could affect conditions during flood events. This impact has the potential to be significant if relocated storm drains are not designed to accommodate preconstruction flood flows.

### **Mitigation**

*Mitigation Measure HWR1.1—Design of Temporary Relocation of Storm Drainage Facilities during Construction* states that temporary storm drainage design during construction will include the necessary review and assessment of alternative routes and ancillary facilities to ensure that they can safely accommodate the redirected flow to the same level of design and performance (i.e., storm drain capacity) as that of the existing facilities until such time that the original facilities are restored. Implementation of *Mitigation Measure HWR1.1* reduces construction impacts to less than significant.

*Mitigation Measure HWR1.2—Design of Permanent Relocation of Storm Drainage Facilities* states that the permanent relocation of stormwater conveyance facilities would be designed so as not to alter the original outlet locations and internal routes. The design will include the necessary review and assessment of pipeline additions and ancillary facilities to ensure that they can safely accommodate flood flows to the same level of design and performance (i.e., storm drain capacity) as that of the existing facilities. Implementation of *Mitigation Measure HWR1.2* reduces operational impacts to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures HWR1.1 and HWR1.2 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to flood hazards during construction and operation would be less than significant.

## **G – Noise and Vibration**

### **G1 - Excessive Groundborne Vibration Levels**

#### **Impact**

For all Project elements, pile driving associated with Pacific Gas and Electric (PG&E) tower relocations is expected to exceed the thresholds at which vibration may become an annoyance and/or damage plaster-walled residential structures for homes within 50 feet of the proposed tower locations. In addition, vibration impacts may be significant for the first row of homes located within approximately 25 feet of the construction sites using heavy construction equipment that is not high-impact equipment.

#### **Mitigation**

*Mitigation Measure NV2.1—Conduct Construction Vibration Monitoring and Implement Vibration Control Approach(es)* would reduce this impact to less than significant. It requires that during periods of construction a qualified acoustical consultant or engineering firm to conduct vibration monitoring at homes or occupied vibration-sensitive buildings to determine if the measured peak particle velocity (PPV) is in excess of 0.2 inches/second. If the threshold is exceeded, construction activity will cease and alternative methods of construction and excavation will be considered. In addition, if permitted, a preconstruction survey will be conducted that documents any existing cracks or structural damage at vibration-sensitive receptors by means of color photography or video, and a designated complaint coordinator (Mitigation Measure NV1.3) will be responsible for handling and responding to any complaints received during such periods of construction.

#### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure NV2.1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to excessive groundborne vibration levels during construction would be less than significant.

## **G2 - Substantial Temporary Increase in Ambient Noise**

### **Impact**

For all Project elements, construction activities could result in substantial short-term noise increases at noise-sensitive land uses that could rise to the level of a significant impact.

### **Mitigation**

Implementation of *Mitigation Measure NV4.1—Provide Advance Notification of Construction Schedule and 24-Hour Hotline to Residents*, *Mitigation Measure NV4.2—Implement Work Site Noise Control Measures*, *Mitigation Measure NV4.3—Designate a Noise and Air Quality Disturbance Coordinator to Address Resident Concerns*, and *Mitigation Measure NV4.4—Install Temporary Noise Barriers* would reduce this impact to less than significant.

*Mitigation Measure NV4.1* requires that advance written notification of the proposed construction activities be provided to all residences and other noise and air quality sensitive uses within 750 feet of the construction site, including the name and contact information of the person responsible for ensuring that reasonable measures are implemented to address the problem. *Mitigation Measure NV4.2* requires that all contractors adhere to specific noise control measures. *Mitigation Measure NV4.3* states that the JPA will designate a representative to act as construction noise and air quality disturbance coordinator, responsible for resolving construction noise and air quality concerns. *Mitigation Measure NV4.4* requires that if a resident or school employee submits a complaint about construction noise, and the contractor is unable to reduce noise levels to below the significance threshold (exceeding 110 dBA at a distance of 25 feet) through other means, the contractor will install temporary noise barriers to reduce noise levels below the applicable construction noise standard, and work will be suspended until barriers are installed.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures NV4.1, NV4.2, NV4.3, and NV4.4 are feasible and will adopt them as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. With these measures in place, impacts related to substantial temporary increases in ambient noise during construction would be less than significant.

## **H – Traffic and Transportation**

### **H1 - Potential to Create Traffic Safety Hazards**

#### **Impact**

For all Project elements, the presence of large, slow-moving construction-related vehicles and equipment among the general-purpose traffic on roadways in the study area could result in safety hazards, which would be a significant impact.

### **Mitigation**

To address the potential for safety hazards related to construction traffic *Mitigation Measure TT1—Require a Site-Specific Traffic Control Plan*, will be implemented which requires contractors to develop and implement a traffic control plan for each construction site. This measure would reduce this impact to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure TT1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to potential to create traffic safety hazards during construction would be less than significant.

## **H2 - Potential to Obstruct Emergency Access**

### **Impact**

At all Project work areas, construction would have the potential to affect emergency vehicle access. Construction-related traffic could also delay or obstruct the movement of emergency vehicles on local area roadways. This would be a potentially significant impact.

### **Mitigation**

Implementation of *Mitigation Measure TT1—Require a Site-Specific Traffic Control Plan*, which is described above, would include provisions to ensure unrestricted access and passage for emergency vehicles and would reduce this impact to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure TT1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to potential to obstruct emergency access during construction would be less than significant.

## **H3 - Potential to Conflict with Alternative Transportation**

### **Impact**

Construction of all Project elements would require closure of existing pedestrian and bicycle trails located on both sides of the Project portion of the Creek and Friendship Bridge. In addition, the support transit and/or bikeways on the designated truck routes of

the Project could be interrupted by slow moving trucks. The impact on the alternative transportation would be temporary but significant.

### **Mitigation**

Implementation of *Mitigation Measure TT1—Require a Site-Specific Traffic Control Plan*, which is described above, would include provisions for maintaining safe, efficient passage for transit, bicyclists, and pedestrians and would reduce this impact to less than significant.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measure TT1 is feasible and will adopt it as described in the Final EIR. This measure will be incorporated into the Project construction documents (plans and specifications) to ensure its implementation. With this measure in place, impacts related to potential to conflict with alternative transportation during construction would be less than significant.

## **III. SIGNIFICANT IMPACTS WHICH CANNOT BE FULLY MITIGATED**

Even after the adoption of all feasible mitigation, the Project may cause or contribute to potentially significant, unavoidable environmental effects on air quality and recreation. The Board finds that the proposed Project will result in the following potentially significant and unavoidable impacts, even with the implementation of all feasible mitigation:

### **Violation of an Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation**

Changes or alterations have been required in, or incorporated into, the Project which minimize the significant effects on the environment to the greatest extent feasible, but the Board finds that mitigation is unlikely to reduce NO<sub>x</sub> emissions to a less than significant level (i.e., mitigation is unlikely to reduce NO<sub>x</sub> emissions below BAAQMD daily emission threshold of 54 pounds per day), and that no alternate or additional mitigation that would provide such a reduction has been identified as feasible. Consequently, the Board finds that a significant residual impact is likely during construction of some of the Project elements.

The following mitigation measures, as described in the Final EIR, will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation: *Mitigation Measure AQ2.1—Implement Tailpipe Emission Reduction for Project Construction*, *Mitigation Measure AQ2.2—Fleet Modernization for Onroad Material Delivery and Haul Trucks during Construction*, *Mitigation Measure AQ2.3—Modernization for Directional Drilling Equipment during Construction*, *Mitigation Measure NV1.1—Provide Advance Notification of Construction Schedule and 24-Hour*



*Hotline to Residents, and Mitigation Measure NV1.3—Designate Construction Noise and Air Quality Disturbance Coordinator to Address Resident Concerns.* The proposed mitigation measures represent all feasible, cost-effective mitigation measures to reduce exhaust emissions to be implemented by the construction contractor. Although the maximum emissions would be generated only when construction activities from all Project elements overlap and would likely to be short-term, the impact would still be significant and unavoidable with mitigation incorporated.

With implementation of all feasible mitigation, Project construction would generate daily emissions of NO<sub>x</sub> exceeding the BAAQMD threshold for various Project components during all construction phases: Utility Relocation, Phase One, and Phase Two. During the Utility Relocation phase, gas line work and directional drilling would result in daily NO<sub>x</sub> emissions of 65.71 lbs/day. During Phase One, construction of the new left bank levee and construction of the right bank levee would result in daily NO<sub>x</sub> emissions of 110.45 and 94.63 lbs/day, respectively. During Phase Two, Conservative Scenario 1—overlap of gas line work, directional drilling, and construction of new left bank levee (Utility Relocation and Phase One) would result in daily NO<sub>x</sub> emissions of 176.16 lbs/day. In addition, a second scenario was evaluated for Phase Two. Conservative Scenario 2—overlap of site prep, installation of right and left bank floodwalls, and flatbed trailer truck trips (Phase Two) would result in daily NO<sub>x</sub> emissions of 68.45 lbs/day.

In summary, the Board will adopt mitigation (Measures AQ2.1, AQ2.2, AQ2.3, NV1.1, and NV1.3) that comprise all of the approaches identified as feasible to reduce criteria pollutant impacts associated with construction of various Project elements. However, even with these measures in place, pollutant levels could intermittently be high enough to exceed BAAQMD thresholds. Any such exceedance would constitute a significant residual impact, and is considered unavoidable.

#### **Exposure of Sensitive Receptors to Substantial Pollutant Concentrations**

Changes or alterations have been required in, or incorporated into, the Project which mitigate the significant effects on the environment to the greatest extent feasible, but the Board finds that mitigation is unlikely to reduce Toxic Air Contaminant (“TAC”) emissions to a less-than-significant level (i.e., mitigation is unlikely to reduce TAC emissions below BAAQMD daily emission thresholds: annual PM<sub>2.5</sub> concentration of 0.3 micrograms per cubic meter (µg/m<sup>3</sup>), cumulative diesel particulate matter (“DPM”) cancer risk of 100 per million, and cumulative average annual PM<sub>2.5</sub> concentration of 0.8 µg/m<sup>3</sup>), and that no alternate or additional mitigation that would provide such a reduction has been identified as feasible. Consequently, the Board finds that a significant residual impact is likely during construction of some of the Project elements.

The following mitigation measures, as described in the Final EIR, will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation: *Mitigation Measure AQ2.1—Implement Tailpipe Emission Reduction for Project Construction, Mitigation Measure AQ2.2—Fleet Modernization for Onroad Material Delivery and Haul Trucks during Construction, Mitigation Measure AQ2.3—Modernization for Directional Drilling Equipment during Construction, Mitigation*

*Measure NV1.1—Provide Advance Notification of Construction Schedule and 24-Hour Hotline to Residents, and Mitigation Measure NV1.3—Designate Construction Noise and Air Quality Disturbance Coordinator to Address Resident Concerns.* The proposed mitigation measures represent all feasible, cost-effective mitigation measures to reduce exhaust emissions to be implemented by the construction contractor.

With implementation of all feasible mitigation, Project construction would generate daily emissions of PM<sub>2.5</sub> and DPM exceeding the BAAQMD threshold for various Project elements during all construction phases: Utility Relocation, Phase One, and Phase Two. During the Utility Relocation phase, construction of Shoofly Towers (T1-4) and gas line work/directional drilling would result in annual PM<sub>2.5</sub> concentrations of 0.65 and 0.40 µg/m<sup>3</sup>, respectively. During Phase One, site preparation would result in an annual PM<sub>2.5</sub> concentration of 0.46 µg/m<sup>3</sup>; construction of new left bank levee would result in an annual PM<sub>2.5</sub> concentration of 0.52 µg/m<sup>3</sup>; modifications to Friendship Bridge would result in an annual PM<sub>2.5</sub> concentration of 0.35 µg/m<sup>3</sup>; and channel widening and marsh plain terracing would result in an annual PM<sub>2.5</sub> concentration of 1.57 µg/m<sup>3</sup>, cumulative DPM cancer risk of 141.83/million, and cumulative average annual PM<sub>2.5</sub> concentration of 2.45 µg/m<sup>3</sup>. During Phase Two, site preparation would result in a cumulative DPM cancer risk of 139.77/million and a cumulative average annual PM<sub>2.5</sub> concentration of 1.13 µg/m<sup>3</sup>; installation of right and left bank floodwalls would result in an annual PM<sub>2.5</sub> concentration of 3.46 µg/m<sup>3</sup>, cumulative DPM cancer risk of 149.23/million, and a cumulative average annual PM<sub>2.5</sub> concentration of 4.35 µg/m<sup>3</sup>; construction of upstream access road on right and left banks would result in a cumulative DPM cancer risk of 139.83/million and a cumulative average annual PM<sub>2.5</sub> concentration of 1.18 µg/m<sup>3</sup>; Conservative Scenario 1—overlap of gas line work, directional drilling and construction of new left bank levee (Utility Relocation and Phase One) — would result in an annual PM<sub>2.5</sub> concentration of 0.9 µg/m<sup>3</sup>, a cumulative DPM cancer risk of 0.6/million, and a cumulative average annual PM<sub>2.5</sub> concentration of 0.9 µg/m<sup>3</sup>; Conservative Scenario 2—overlap of site prep, installation of right and left bank floodwalls, and Flatbed trailer truck trips (Phase Two) —would result in an annual PM<sub>2.5</sub> concentration of 3.7 µg/m<sup>3</sup>, a cumulative DPM cancer risk of 149.3/million, and a cumulative average annual PM<sub>2.5</sub> concentration of 4.6 µg/m<sup>3</sup>.

In summary, the Board will adopt mitigation (Measures AQ2.1, AQ2.2, AQ2.3, NV1.1, and NV1.3) that comprise all of the approaches identified as feasible to reduce impacts associated with TAC emissions during construction of various Project elements. However, even with these measures in place, TAC levels could intermittently be high enough to exceed BAAQMD thresholds. Any such exceedance would constitute a significant residual impact, and is considered unavoidable.

#### **Result in Reduced Availability of Existing Recreational Facilities or Uses**

Changes or alterations have been required in, or incorporated into, the Project which mitigate the significant effects on the environment. The Project would relocate the levee on the left bank of San Francisquito Creek inland from its existing location, thereby widening the Creek and cutting through a portion of the Golf Course. To accommodate the new levee footprint and maintain playability of the course, holes 12 through 15 (which are adjacent to the Creek) and certain holes among the remaining fourteen holes

would need to be reconfigured on a timetable to be determined by the City of Palo Alto. The total area of the Golf Course to be permanently incorporated into the Project is 7.4 acres. The converted portion of the Golf Course would remain dedicated parkland, but would be permanently converted from Golf Course use to open space as part of the Project. However, it is feasible to reconfigure the Golf Course design in order to maintain or improve the Golf Course's Professional Golfers' Association (PGA) rating and its playability. *Mitigation Measure REC-1—Compensate the City of Palo Alto for the Conversion of 7.4 Acres of the Palo Alto Municipal Golf Course to Accommodate Project Features* requires the SFCJPA to provide monetary compensation to the City of Palo Alto to compensate for the costs of reconfiguring the Golf Course to maintain its PGA regulation status. Implementation of the proposed mitigation measure REC-1 would reduce permanent impacts on the Golf Course to a less-than-significant level.

The Board finds that implementation of Mitigation Measure REC-1 is within the responsibility and jurisdiction of another public agency (the City of Palo Alto) and has been, or can and should be, adopted by Palo Alto. Since the District does not have the ability to guarantee the implementation of this measure, a significant and unavoidable impact on the Golf Course is assumed. The District, through the JPA, is committed to providing funding to compensate for the costs of reconfiguring the Golf Course as described in *Mitigation Measure REC-1*.

In summary, the Board will adopt Mitigation Measure REC-1 that comprises all of the approaches identified as feasible to reduce impacts associated with the permanent incorporation of 7.4 acres of the Golf Course into the Project. However, because implementation of the mitigation measure is outside the District's and the JPA's jurisdiction and fulfillment cannot be guaranteed, a significant and unavoidable impact is assumed.

## **Contributions to Cumulative Air Quality Impacts**

### **Impact and Project Contribution**

The San Francisco Bay Area Air Basin is a nonattainment area for the federal 8-hour ozone standard, the state 1-hour ozone standard, and the state PM<sub>10</sub> and PM<sub>2.5</sub> standards; this represents a significant existing cumulative impact on air quality. Construction of the proposed project would temporarily increase emissions of ozone precursors, such as NO<sub>x</sub>. The BAAQMD has established emissions thresholds which it believes a project's individual operational criteria pollutant emissions would be cumulatively considerable. Therefore, it considers the project-level criteria pollutant thresholds to address both project-level and cumulative impacts (Bay Area Air Quality Management District 2011). The Project's construction emissions were estimated to exceed the BAAQMD daily emission threshold for NO<sub>x</sub>. Therefore, construction-related tailpipe emissions are expected to constitute a considerable contribution to existing cumulative air quality degradation, notwithstanding the mitigation incorporated into the Project as discussed above.

### **Mitigation**

Implementation of *Mitigation Measures AQ2.1 through AQ2.3* and *Mitigation Measures NV1.1 and NV1.3* discussed above would reduce NO<sub>x</sub> emissions, but BAAQMD's NO<sub>x</sub> thresholds would still be exceeded. Therefore, the project's construction activities on cumulative air quality impacts are expected to be significant and unavoidable.

### **Finding**

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. The Board finds that Mitigation Measures AQ2.1 through AQ2.3 and Mitigation Measures NV1.1 and NV1.3 are feasible and will adopt these measures as described in the Final EIR. These measures will be incorporated into the Project construction documents (plans and specifications) to ensure their implementation. However, even with this measure in place, the Project is expected to have a cumulatively considerable contribution to regional air quality degradation.

Except for the temporary air quality impacts from construction, and recreational impacts to the Palo Alto Golf Course, the Board finds that the EIR identifies no significant environmental effects of the proposed Project which cannot be mitigated to levels of insignificance and further finds that all impacts will either be avoided or reduced to a level that is both insignificant and acceptable. All mitigation measures which are included in the proposed Project and EIR (whether or not they are expressly designated as mitigation measures), or which are referenced in these Findings, or which are included in the Mitigation Monitoring and Reporting Program, shall be deemed adopted as part of the Board's approval of the Project and certification of the Final EIR to the extent they have been identified as measures to be undertaken by the District.

## **IV. ALTERNATIVES ANALYSIS**

CEQA requires that an EIR describe a range of reasonable alternatives to a project, or to the location of a project, which could reduce potential impacts while still attaining the basic objectives of the project, and to evaluate the comparative merits of the alternatives. CEQA Guidelines also require that the range of alternatives considered include a "No Project" alternative. For comparative purposes, the objectives of the Proposed Project are set forth in Section I. D of these findings, and impacts are analyzed in Sections II and III above. As set forth below, the JPA considered various alternatives in selecting the Proposed Project.

The Board finds the following with regard to the alternatives analyzed in the EIR, as discussed in more detail below.

- The EIR describes a reasonable range of alternatives to the Project as proposed.
- The Board has evaluated the comparative merits of the alternatives and rejected them in favor of the proposed Project.

- There are no feasible alternatives within the District's powers that would substantially lessen or avoid any significant effects from the Project.

The EIR analyzed two alternatives advanced from the preliminary alternatives analysis in addition to the Project as proposed: Alternative 3 (Golf Course Bypass) and the No Project Alternative.

### ***Findings Regarding the Alternatives – Environmentally Superior Alternative***

Alternative 3 (Golf Course Bypass) includes in-channel marshplain terraces, similar to the Project and a large bypass channel extending across the center of the Golf Course. It does not include levee setbacks in either the middle or upper reaches as set forth in the Project. The differentiating feature of Alternative 3 is a large bypass channel extending from south to north through the center of the Golf Course. This bypass reach would intersect the existing channel just downstream of the Baylands Athletic Center and reconnect with the main channel near the airport runway. During both normal daily flows and fluvial flood events, a portion of upstream flows would be diverted through the bypass channel, therefore significantly reducing water levels in the middle reach and conveying a large percentage of flows away from the residences of East Palo Alto. Maintenance and operations of Alternative 3 would be identical to those of the Project. Although Alternative 3 would accomplish Project goals and objectives and reduce impacts on biological resources it would result in greater impacts to aesthetics, cultural resources, land use, noise and vibration, recreation, and traffic. The Board finds that specific economic, legal, social, or other considerations make this alternative infeasible. Specifically, the Board finds this alternative infeasible and undesirable from a policy standpoint because it would result worse environmental impacts when compared to the Project.

The No Project Alternative would avoid numerous significant impacts identified for the proposed Project, but would not accomplish the Project's identified goal and objectives. The Board finds that specific economic, legal, social, or other considerations make this alternative infeasible. Specifically, the Board finds that this alternative is infeasible because it would not meet the Project objectives.

## **V STATEMENT OF OVERRIDING CONSIDERATIONS**

As described in the Background section, flooding from the Creek is a common occurrence and the most recent major flood event in February 1998 affected approximately 1,700 residential, commercial, and public structures and caused more than \$28 million in property damages. The maximum instantaneous peak flow recorded during the February 1998 event was 7,200 cfs. The USACE estimates that the 1998 flood was a 45-year flood event. A 100-year flood event is anticipated to result in flows of 9,400 cfs at the mouth of the Creek, and these flows would exceed the existing capacity of the Creek (San Francisquito Creek Joint Powers Authority 2009). Protection

from the 100-year flood (1-percent flood protection) is the currently accepted standard for flood protection works, and the Project is being designed specifically to meet a goal of providing 1 percent flood protection for residents and businesses along the San Francisquito Creek corridor.

Construction of the Project would likely result in significant and unavoidable effects on air quality associated with construction of various Project elements during all Project phases. The Board finds that the construction-related air quality impacts are temporary and an unavoidable byproduct of the need to use heavy equipment to complete the Project. The Project would also result in significant and unavoidable effects related to reduced availability of existing recreational facilities due to the permanent incorporation of 7.4 acres of the Golf Course into the Project. The District has committed to all feasible mitigation to reduce this impacts, but the implementation of the mitigation measure for recreation impacts is outside the District's and JPA's jurisdiction and fulfillment cannot be guaranteed. No additional feasible mitigation is available.

The Board finds that specific economic, legal, social, technological, or other considerations make infeasible any additional mitigation measures or Project alternatives identified in the Final EIR, as detailed above in Section IV. All feasible mitigation measures have been incorporated into the Project by way of adoption of the Mitigation Monitoring and Reporting Program, as requirements of implementation of the Project.

In making this Statement of Overriding Considerations in support of the findings of fact and the Project, the Board has considered information contained in the Final EIR for the Project as well as the public testimony and record of proceedings in which the Project was considered. The District has balanced the Project's benefits against the unavoidable adverse impacts identified in the Final EIR. This determination is made based upon the public benefits identified in the Final EIR and record of proceedings as flowing from the Project.

#### **The project provides long term solution to flood management**

Key project objectives include improving public safety through flood risk management; accommodating future flood protection measures upstream; enhancing habitat and recreational opportunities in the project area; and minimizing maintenance needs of the Project. The impacts of the Project are localized to the project vicinity, but the Project provides long term regional benefits from implementation.

#### **The Board finds that the benefits of the Project outweigh the unavoidable adverse environmental effects**

The Final EIR was prepared pursuant to the CEQA Guidelines. The Board has independently determined that the Final EIR fully and adequately analyzes the impacts and mitigation measures of the Project. The number of Project alternatives identified and considered in the EIR meets the test of "reasonable" analysis and provides the Board with important information from which to make an informed decision. Substantial

evidence in the record from public meetings and other sources demonstrates various benefits and considerations including economic, legal, social, and technological which would be achieved from implementation of the Project.

In consideration of the existing flood risks along San Francisquito Creek associated with lack of adequate capacity in the Creek channel, and the analysis of Project outcomes presented in the Final EIR, the Board balanced Project benefits and considerations against the unavoidable and irreversible environmental risks identified in the EIR and concluded that those impacts are outweighed by the Project benefits. Upon balancing the environmental risk and countervailing Project benefits, the Board has concluded that the benefits that will derive from implementation of the Project outweigh those environmental risks many of which are temporary. The remaining unavoidable and irreversible impacts of the Project are acceptable in light of economic, legal, social, technological, and other considerations set forth herein because the benefits of the Project outweigh any significant and unavoidable or irreversible environmental impact of the Project.