

**CALENDAR ITEM  
C60**

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06/19/14  
PRC 4624.9  
D. Simpkin

**TERMINATION AND ISSUANCE OF A  
GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

East Bay Regional Park District

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

Sovereign land located in Breuner Marsh, San Pablo Bay, Contra Costa County.

**AUTHORIZED USE:**

Continued use and maintenance of a public park and the construction, use, and maintenance of a concrete boardwalk.

**LEASE TERM:**

25 years, beginning June 19, 2014.

**CONSIDERATION:**

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

**OTHER PERTINENT INFORMATION:**

1. On October 28, 1971, the Commission authorized the issuance of a Public Agency Permit No. PRC 4624.9, to the East Bay Regional Park District (District) for a 49-year term, effective July 15, 1971 for public recreational purposes.
2. The existing lease authorizes the use of a public park which includes a portion of Breuner Marsh. The District is now applying for a General Lease – Public Agency Use to accommodate the Breuner Marsh Restoration and Public Access Project (Project). As the existing lease term has only six years remaining, staff recommends terminating the existing lease and issuing a new 25-year lease to the District.

CALENDAR ITEM NO. **C60** (CONT'D)

3. The Project includes an extension of the San Francisco Bay Trail. A 13-foot wide by approximately 150-foot long section of concrete boardwalk supported by 18-inch diameter concrete piles will be located within the Commission's jurisdiction.
4. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

5. **Issuance of a new lease:** An Environmental Impact Report (EIR), State Clearinghouse No. 2011072011, was prepared for this project by East Bay Regional Park District and certified on July 3, 2012. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of CEQA (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) are contained in Exhibit D, attached hereto.

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

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

CALENDAR ITEM NO. **C60** (CONT'D)

**CEQA FINDING:**

**Lease Termination:** Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**Issuance of new Lease:** Find that an EIR, State Clearinghouse No. 2011072011, was prepared for this Project by the East Bay Regional Park District and certified on July 3, 2012, and that the Commission has reviewed and considered the information contained therein.

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

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

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

**SIGNIFICANT LANDS INVENTORY FINDING:**

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

**AUTHORIZATION:**

1. Authorize termination, effective June 18, 2014, of Public Agency Permit No. PRC 4624.9 to the East Bay Regional Park District.
2. Authorize issuance of a General Lease – Public Agency Use to the East Bay Regional Park District, beginning June 19, 2014, for a term of 25 years, for the continued use and maintenance of a public park and the construction, use, and maintenance of a concrete boardwalk as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interest.

**EXHIBIT A**

**PRC 4624.9**

**LAND DESCRIPTION**

Two Parcels of land situate in the County of Contra Costa, State of California, described as follows:

**PARCEL 1:**

Parcel 1 as described in Exhibit C of Boundary Line Agreement 111, recorded in Book 5873, Page 1, Contra Costa County, State of California.

**PARCEL 2:**

A portion of Parcel 2 as described in Exhibit C of Boundary Line Agreement 111, recorded in Book 5873, Page 1, Contra Costa County, State of California, described as follows:

BEGINNING at the easterly terminus of that line described as S 87°50'06" W 1,450.68 feet in said Parcel 2, thence along the southerly and easterly boundary of said Parcel 2 S 87°50'06" W 1,450.68 feet; thence S 19°20'06" W 565.11 feet; thence S 30°20'06" W 705.73 feet; thence S 1°10'05" W 141.77 feet; thence N 89°00'05" W 470.00 feet; thence leaving said boundary of Parcel 2 North 1,534.81 feet to a point on the northerly boundary of said Parcel 2; thence easterly and southerly along the boundary of said Parcel 2 N 87°40'15" E 1,005.86 feet; thence N 87°50'06" E 1,489.51 feet; thence S 5°12'36" W 302.50 feet to the POINT OF BEGINNING.

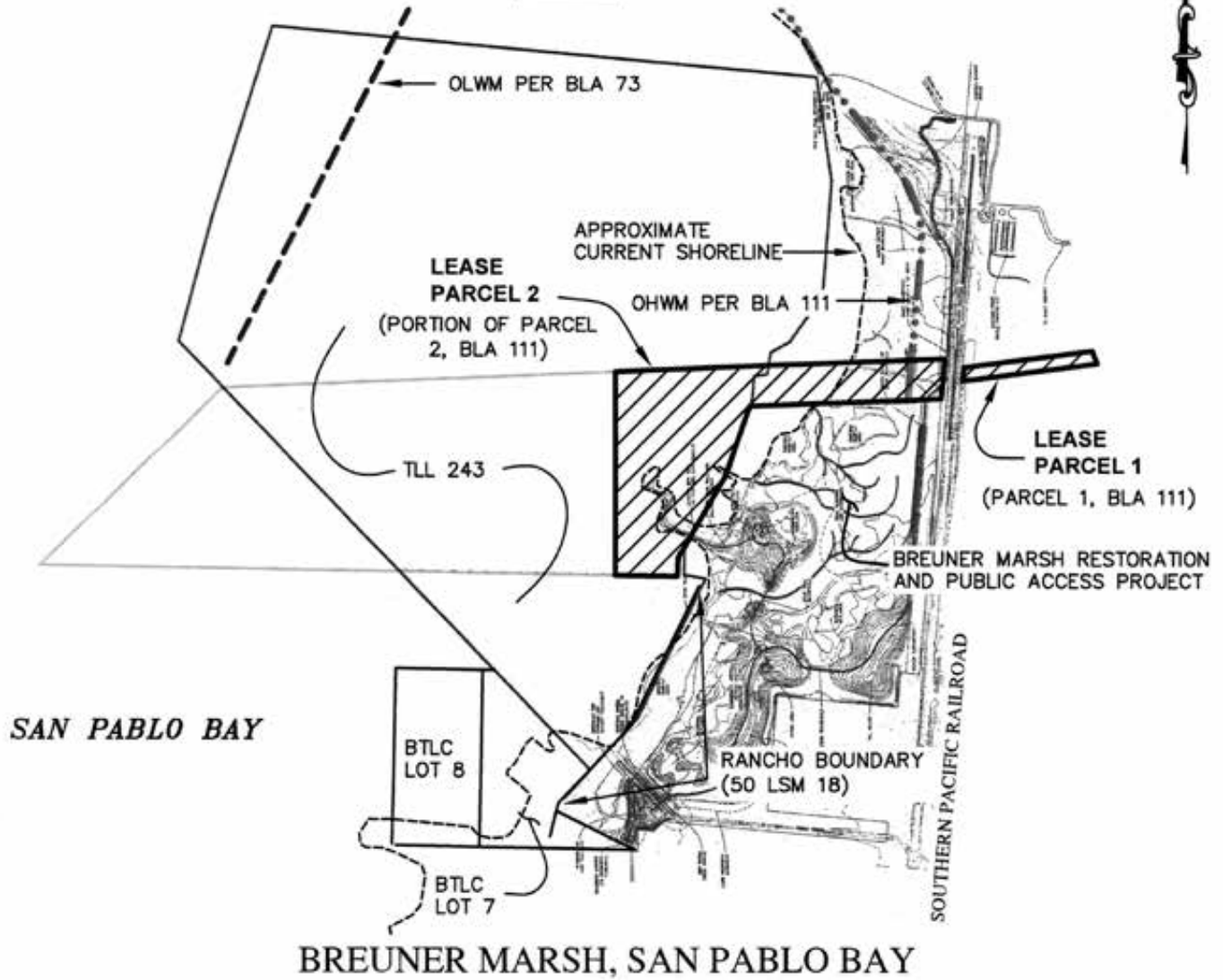
**END OF DESCRIPTION**

Prepared 4/23/2014 by the California State Lands Commission Boundary Unit.



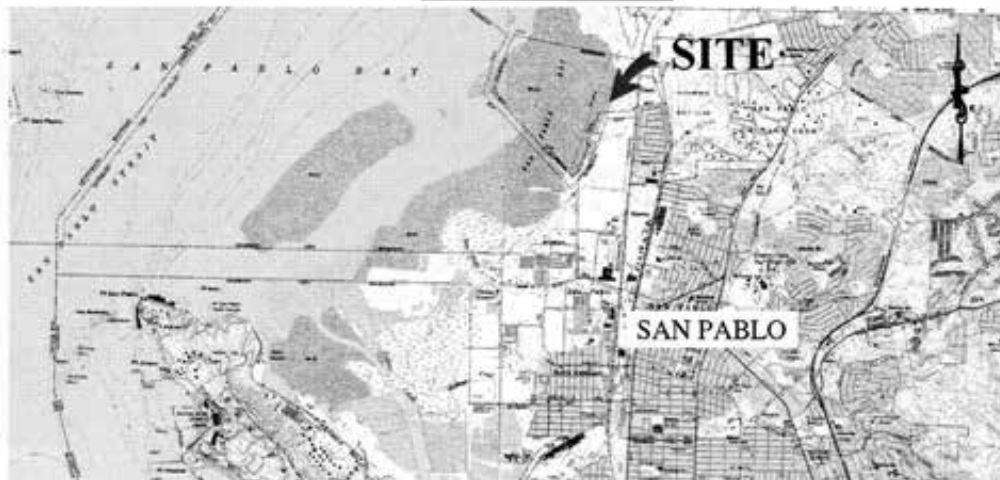
NO SCALE

# SITE



NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 4624.9  
 EAST BAY REGIONAL  
 PARK DISTRICT  
 GENERAL LEASE -  
 PUBLIC AGENCY USE  
 CONTRA COSTA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

**EXHIBIT C**  
**CALIFORNIA STATE LANDS COMMISSION**  
**MITIGATION MONITORING PROGRAM**  
**BREUNER MARSH RESTORATION PROJECT**  
**SCH 2011072011**  
(PRC No. 4624)

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
<b>Air Quality</b>					
<b>Impact AQ-1:</b> Grading and other ground disturbing activities would produce temporary fugitive dust, which could add to the amount of airborne particulates and contribute to the nonattainment designation of the San Francisco Bay Area Air Basin (SFBAAB).	<p><b>MM AQ-1:</b> The Proposed Project would comply with the Bay Area Air Quality Management District (BAAQMD) Basic Control Measures for reducing construction emissions of Particulate Matter-10 microns (PM10):</p> <ul style="list-style-type: none"> <li>• Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 24 inches of freeboard (i.e., the minimum required space between the top of the load the top of the trailer).</li> <li>• Apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.</li> <li>• Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.</li> </ul>	Project Area	Construction Plan Specifications	Prior to issuance of grading and building permits and ongoing, during construction	East Bay Regional Parks District (EBRPD)
<b>Impact AQ-2:</b> Use of heavy, off-road, and on-road construction equipment would temporarily produce	<b>MM AQ-2a:</b> The construction contractor shall implement the following measures to reduce construction exhaust emissions of NO <sub>x</sub> during grading and construction activities. To assure compliance, EBRPD shall verify that these measures have been implemented during	Project Area	Construction Plan Specifications	Prior to issuance of permits and ongoing, during	EBRPD

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
substantial emissions of Oxides of Nitrogen (NO <sub>x</sub> ), which would exceed the BAAQMD threshold of significance and could contribute to the ozone (O <sub>3</sub> ) and particulate matter (PM) nonattainment designations of the SFBAAB.	<p>normal construction site inspections:</p> <ul style="list-style-type: none"> <li>The construction contractors shall use construction equipment rated by the United States Environmental Protection Agency as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower. Tier 3 engines between 50 and 750 horsepower are available for 2006 to 2008 model years. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site.</li> <li>The construction contractor shall ensure that all construction equipment is properly serviced and maintained to the manufacturer's standards to reduce operational emissions.</li> <li>The construction contractor shall limit nonessential idling of construction equipment to no more than five consecutive minutes.</li> </ul>			construction	
<b>Biological Resources</b>					
<p><b>Impact BIO-1:</b> Special status wildlife species including the Salt Marsh Harvest Mouse (SMHM), San Pablo Vole, and several special-status bird species, and other nesting birds protected by the Migratory Bird Treaty Act, could be harmed by the construction phase of the project.</p>	<p><b>MM BIO-1a:</b> Protocol-level surveys shall be conducted in suitable salt marsh habitat for California clapper rail and California black rail prior to construction each year of the proposed construction activity. Protocol surveys are conducted around dawn or dusk during February and March when rails are most likely to vocalize during their breeding season. If active nests are found, consultation with agency staff would be required to determine appropriate setbacks or work windows.</p>	Project Area	California clapper rail and California black rail protocol-level surveys, and survey report, by Qualified Biologist	Prior to construction for each year of construction activity	EBRPD
	<p><b>MM BIO-1b:</b> Pre-construction nesting surveys shall be conducted for San Francisco Common Yellowthroat, Bryant's Savannah Sparrow, San Pablo Song Sparrow, Loggerhead Shrike, Short-eared Owl, White-tailed Kite, Northern Harrier, and other nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of disturbance to nesting habitats. If nests are found, they will be flagged and a suitable buffer area</p>	Project Area	Pre-construction surveys for nesting birds by Qualified Biologist	Prior to any work during bird nesting season	EBRPD

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
	<p>established. No work will be conducted within this buffer area until young have fledged and are independent of the nest. Breeding bird surveys are not needed if work is conducted outside the nesting season (between September 1 and January 31).</p>				
	<p><b>MM BIO-1c:</b> Pre-construction surveys carried out for California clapper rail and California black rail would also detect other tidal marsh wildlife species. Exclusion fencing shall be installed prior to construction, and vegetation shall be cleared in phases using hand tools, exclusion fencing, special status species sensitivity training, and/or biological monitors.</p>	Project Area	<p>Install exclusion fencing as needed. Clear vegetation in phases with hand tools. Provide sensitivity training for construction crew. Provide Qualified Biological Monitors</p>	<p>Prior to construction for each year of construction activity/During construction in sensitive areas</p>	EBRPD
	<p><b>MM BIO-1d:</b> Project-specific avoidance and minimization measures consistent with those required by the U.S. Fish and Wildlife Service (USFWS), specified as permit conditions, shall be carried out. They are likely to include: preconstruction surveys in SMHM habitat; use of hand-powered tools for initial vegetation clearing where possible; vegetation removal supervised by a Service approved biologist; re-supplying native plant seed to disturbed wetlands as a SMHM food source; use of exclusion fencing and other means to prevent trapping mice in equipment; work stoppage during extreme high tides to allow SMHM migration to higher grounds; and development of, and adherence to, a habitat mitigation and monitoring plan.</p>	Project Area	<p>Carry out project-specific avoidance and minimization measures consistent with USFWS as specified in permit conditions and monitored by Qualified Biologist</p>	<p>During project construction</p>	EBRPD



Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
<b>Cultural Resources</b>					
<b>Impact CULT-2:</b> Project excavation and regrading could destroy as yet undiscovered and unrecorded archaeological remains.	<b>MM CULT-2:</b> In the event of an unanticipated discovery of archaeological deposits or remains during project implementation, construction crews shall stop all work within 100 feet of the discovery until a qualified archaeologist can assess the discovery and provide recommendations. Resources could include buried historic features, such as artifact-filled privies, wells, and refuse pits, and artifact deposits, concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile points and knives), midden (darken soil created culturally from use and containing heat-affected rock, artifacts, animal bones, or shellfish remains), and/or groundstone implements (such as mortars and pestles).	Project Area	Stop work in the event of archaeological discovery and call Archaeologist	During construction activities	EBRPD
<b>Impact CULT-3:</b> Fossils with important scientific value and unique geological features could be unearthed during construction activities.	<b>MM CULT-3:</b> Construction contractors will be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD will be notified if these are uncovered during construction and work will halt until the situation can be assessed by a qualified Geologist or Paleontologist who can make recommendations to avoid their destruction prior to collection, or evaluation.	Project Area	Training and Stop work in the event of geological/ paleontological discovery and call Geologist/ Paleontologist	During construction activities	EBRPD
<b>Impact CULT-4:</b> Human remains could be unearthed during construction activities.	<b>MM CULT-4:</b> If human remains are encountered as a result of construction activities, any work in the vicinity shall stop, and the County Coroner shall be contacted immediately. In addition, a qualified archaeologist shall be contacted immediately to evaluate the discovery, if a monitor is not already present. If the human remains are Native American in origin, then the Coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification.	Project Area	Stop work in the event of discovery of human remains and call Coroner	During construction activities	EBRPD / Contra Costa County Coroner

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
<b>Geology and Soils</b>					
<b>Impact GEO-1:</b> Strong ground shaking could damage elevated structures such as boardwalks and bridges, exposing trail users to risks.	<b>MM GEO-1a:</b> A design-level Geotechnical Investigation shall be prepared for the site under the direction of a California Registered Geotechnical Engineer, or Civil Engineer experienced in geotechnical engineering. The Geotechnical Investigation shall establish the seismic design parameters, as determined by the geotechnical engineer or civil engineer in accordance with requirements of the California Building Code. The Geotechnical Investigation shall be reviewed and approved by the City Engineer and by the EBRPD Engineer as part of structural design review of the bridges and boardwalks.	Project Area	Design-level Geotechnical Investigation	As part of structural design review prior to issuance of final grading and building permits	EBRPD
	<b>MM GEO-1b:</b> EBRPD shall apply to the City of Richmond for grading and building permits from the Planning, Engineering, and Building Divisions, and modify designs to ensure that permits are granted. This will ensure City review of grading and drainage plans; alterations to the FEMA-designated 100-year floodplain; and buildings and other structures such as bridges and boardwalks, and adherence to the City of Richmond Municipal Code and applicable Ordinances, including grading, drainage, and seismic design criteria for planned structures and buildings.	Project Area	City grading and building permits	Before grading begins	EBRPD
	<b>MM GEO-1c:</b> All construction, notably foundation engineering shall be performed in accordance with the recommendations of the Geotechnical Investigation. The design plans shall identify specific mitigation measures to reduce the liquefaction potential of surface soils. Mitigation measures may include excavation and replacement as engineered fill, reduced foundation loading, and other ground improvement methods.	Project Area	Final construction plans	Prior to issuances of grading and building permits	EBRPD
<b>Impact GEO-2:</b> Seismically induced liquefaction could damage site structures	<b>MM GEO-2a:</b> See MM GEO-1a.				
	<b>MM GEO-2b:</b> See MM GEO-1b.				
	<b>MM GEO-2c:</b> See MM GEO-1c.				

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
such as the restroom, boardwalks and bridges, exposing site users to risks.					
<p><b>Impact GEO-3:</b> Ground disturbance and soil cut and fill could result in soil erosion and siltation to the Bay, wetlands, and other sensitive plant and wildlife habitat.</p>	<p><b>MM GEO-3a:</b> EBRPD shall complete an Erosion Control and Revegetation Plan to be submitted to the City of Richmond in conjunction with the Grading Permit Application. The Erosion Control and Revegetation Plan shall include winterization, dust control, erosion control, and pollution control measures conforming to the Association of Bay Area Government (ABAG) Manual of Standards for Erosion and Sediment Control Measures and the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook Portal: Construction. The Erosion Control Plan shall describe the “Best Management Practices” (BMPs) to be used during and following construction to control pollution resulting from both storm and construction water runoff. The Plan shall include locations of vehicle and equipment staging, portable restrooms, mobilization areas, and planned access routes.</p> <p>Recommended soil stabilization techniques include: placement of straw attles, silt fences, berms, and gravel construction entrance areas or other control to prevent tracking sediment onto city streets and into storm drains.</p>	Project Area	Erosion Control and Revegetation Plan	Prior to issuance of Grading Permit	EBRPD
	<p><b>MM GEO-3b:</b> EBRPD shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Proposed Project. The SWPPP and Notice of Intent must be submitted to the State Water Resources Control Board to receive a Construction General Permit. The updated plan shall address National Pollutant Discharge Elimination System (NPDES) requirements and be designed to protect water quality both during and after construction. The Project SWPPP shall include a description of the (BMPs) used to prevent the discharge of other construction-related NPDES pollutants beside</p>	Project Area	Storm Water Pollution Prevention Plan and Notice of Intent	Prior to issuance of Grading Permit	EBRPD

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
	sediment (i.e., paint, concrete, etc.) to downstream waters and adjacent Bay waters. After construction is completed, all drainage facilities shall be inspected for accumulated sediment from the project, and these drainage structures shall be cleared of debris and sediment.				
<b>Impact GEO-5:</b> Shrinking and swelling of expansive soils that occur on the project site could damage public access facilities and cause heaving and cracking.	<b>MM GEO-5a:</b> See MM GEO-1a.				
	<b>MM GEO-5b:</b> See MM GEO-1b.				
	<b>MM GEO-5c:</b> See MM GEO-1c.				
	<b>MM GEO-5d:</b> A design-level Geotechnical Investigation shall be prepared for the site under the direction of a California Registered Geotechnical Engineer or a Civil Engineer experienced in soils and foundation design and shall include analysis for expansion potential of the site soils. Proper foundation engineering and construction shall be performed in accordance with the recommendations of the Geotechnical Investigation. The Geotechnical Investigation shall be reviewed and approved by the EBRPD Project Engineer and the City Engineer, as appropriate. The design plans shall identify specific mitigation measures to reduce the effects of expansive surface soils. Mitigations measures may include the following: excavate expansive soils and replace with at least 1 foot of non-expansive fill. Design and construct structures to withstand expected stresses by the implementation of the following: minimize use of slab-on-grade floors; support buildings and slabs on non-expansive materials; chemically treat expansive materials to reduce expansion potential; avoid siting structures across soil materials of substantially different expansive properties; extend foundations below the zone of seasonal moisture change; utilize pier-and-grade-beam foundation systems where appropriate; utilize special bending resistant design; and prevent accumulation of surface water adjacent to buildings.	Project Area	Structural design	As part of structural design review prior to issuance of final grading and building permits	EBRPD

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
<b>Hazards and Hazardous Materials</b>					
<b>Impact HAZ-1:</b> The proposed trail route would be within a few tens of feet of the underground Shell pipeline on the eastern side of the Project Site and construction could damage the pipeline.	<b>MM HAZ-1:</b> Fill placement within a zone 10 feet either side of a known pipeline location, or excavation within 25 feet, would be avoided if possible. If field conditions dictate a reduced distance in certain locations, the absolute minimum distance for excavation would be 5 feet from any high risk utility pipeline. No more than 1 foot of additional fill shall be placed on top of a pipeline. Existing markers shall be relocated as needed.	Near Project Trail Route	Pipeline avoidance	During grading	EBRPD
<b>Impact HAZ-2:</b> Contamination from past pipeline leaks other petroleum chemicals formerly used on the project site, could be discovered during grading.	<b>MM HAZ-2:</b> If any oil-stained soil, or soil with a strong petroleum odor is discovered during project site grading, work will halt, samples will be taken, and the excavation will be covered until the results are received. If contamination above regulatory limits is found, the contaminated soil shall be remediated in accordance with standard procedures.	Project Area	Testing for contamination and possible remediation	During grading	EBRPD
<b>Hydrology and Water Quality</b>					
<b>Impact HYDRO-1:</b> During construction the proposed project could potentially violate water quality standards or waste discharge requirements if sediment-laden runoff from disturbed work areas enters local waterways and increases turbidity or if fuel or other construction chemicals are accidentally spilled or leaked into the water.	<b>MM HYDRO-1a:</b> Detailed plans for temporary construction related erosion control shall be incorporated in the project plans. Construction plans shall specify all erosion and sediment control measures, including (where applicable): <ul style="list-style-type: none"> <li>• Limiting access routes and stabilizing access points.</li> <li>• Stabilizing graded areas as soon as possible with seeding, mulching, erosion control materials or other effective methods.</li> <li>• Delineating clearing limits, easements, setbacks, sensitive areas, vegetation and drainage courses by marking them in the field.</li> <li>• Stabilizing and preventing erosion from temporary conveyance channels and outlets.</li> </ul> If rainfall occurs, using sediment controls and filtration to remove sediment from water collected on-site during construction.	Project Area	Erosion control measures in project plans	Prior to issuance of grading permit	EBRPD

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
	<p><b>MM HYDRO-1b:</b> A SWPPP and a Spill Control and Countermeasures Plan (SCCP) shall be prepared by construction contractor Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the California Stormwater Quality Association (CASQA). The SWPPP shall include BMPs to prevent or minimize stormwater pollution during construction activities, and post construction.</p> <p>The project Erosion Control and Revegetation Plan, and a Spill Control and Countermeasures Plan, shall be included in the SWPPP, and in the Construction Documents. BMPs shall be prepared and implemented to control short-term construction-related water quality impacts. BMPs shall include at a minimum the following measures:</p> <ul style="list-style-type: none"> <li>• Use temporary measures, such as flow diversion, temporary ditches, and silt fencing or straw wattles.</li> <li>• Surface disturbance of soil and vegetation shall be minimized; existing access and maintenance roads shall be used wherever feasible.</li> <li>• Any stockpiled soil shall be placed, sloped, and covered so that it would not be subject to accelerated erosion.</li> <li>• Accidental discharge of all project-related materials and fluids into local waterways shall be avoided by using straw rolls or silt fences, constructing berms or barriers around construction materials, or installing geofabric in disturbed areas with long, steep slopes.</li> <li>• After ground-disturbing activities are complete for each area, all graded or disturbed areas shall be covered with protective material such as mulch, and re-seeded with native plant species. The Erosion Control and Revegetation Plan shall include details regarding site preparation, topsoiling, seeding, fertilizer, mulching, and temporary irrigation.</li> </ul>	Project Area	Storm Water Pollution Prevention Plan and Spill Control and Countermeasures Plan	During permitting phase	EBRPD

Potential Impact	Mitigation Measure (MM)	Location	Monitoring / Reporting Action	Timing	Responsible Party
	<b>MM HYDRO-1c:</b> All refueling and/or maintenance of heavy equipment shall take place at a minimum of 50 feet away from all identified jurisdictional wetlands and Waters of the US drainage courses. The refueling/ maintenance and construction staging area shall be bermed, graveled, or covered with straw and incorporate measures for capture of any accidental spills.	Refueling/ equipment maintenance and staging area	Location of refueling/ equipment maintenance staging area	During construction	EBRPD
<b>Noise</b>					
<b>Impact NOISE-1:</b> Noise from impact pile driving methods (for the installation of piers for the portions of the Giant Marsh boardwalk running parallel to the rail lines) could be annoying to closest neighbors in Parchester Village and would be above the weekday allowable limits for stationary construction equipment.	<b>MM NOISE-1a:</b> Parchester Village residents shall be notified one week before, and again 24 hours prior to the start of pile installation across Giant Marsh. Activities shall be restricted to weekdays between 9:00 a.m. and 5:00 p.m.	Project Area	Neighbor notification	One week before, and again 24 hours prior to the start of pile installation across Giant Marsh	EBRPD
	<b>MM NOISE-1b:</b> Impact pile driving shall not be used to install piers within 700 feet of the residences. Suitable alternative techniques could include (but are not necessarily limited to) Auger Cast Piles (large diameter hollow stem auger with steel rebar and concrete installed prior to/during auger removal); Torque-down Piles (steel pipe pile drilled in place then filled with concrete); Micro-piles (Steel piles sized for corrosion protection with a concrete pile cap); Steel H-beams sized for corrosion protection and installed using vibratory hammer (no pounding and with concrete pile cap above the surface for corrosion protection); and/or Helical piles (screw piles with concrete cap). The selected pile installation equipment shall have a noise level less than 86 dBA Lmax at 50 feet for fullload operations and including work-piece noise contributions.	Project Area	Pile installation techniques	Construction planning	EBRPD

# EXHIBIT D – BREUNER MARSH RESTORATION PROJECT

## CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS

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### 1.0 INTRODUCTION

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use to the East Bay Regional Park District (EBRPD), for use of sovereign lands associated with the proposed Breuner Marsh Restoration Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)<sup>1</sup> The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306.) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must approve a lease for the Project to go forward and because the EBRPD, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The EBRPD analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2011072011) and, in July 2012, certified the EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP) and Findings.

The Project involves restoring, creating and enhancing 150 acres of wetlands and grasslands at Point Pinole Regional Shoreline. In addition to wetland restoration, the Project will provide public access to the San Francisco Bay shoreline by constructing trails, interpretive exhibits, restrooms, picnic facilities, and a parking area. Finally, the Project will construct a 1.5-mile portion of the San Francisco Bay Trail to close the gap between Goodrick Avenue to the Point Pinole Peninsula.

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

- Air Quality;
- Biological Resources;
- Cultural Resources;

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



- Geology/Soils;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality; and
- Noise.

Project components within the CSLC's jurisdiction (i.e., grading for wetland restoration and construction of the Bay Trail) could have significant environmental effects on all seven of the resource areas listed above.

In certifying the Final EIR and approving the Project, the EBRPD imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant.

As a responsible agency, the CSLC complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the CSLC may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or project revisions are implemented, the CSLC adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C incorporated herein by reference as though set forth in full as part of its Project approval.

## 2.0 FINDINGS

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the EBRPD for the Project identifies potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund v. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

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

associated with implementation of the Project, the CSLC is bound by the legal presumption that the EIR fully complies with CEQA.

The CSLC has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the CSLC's approval of a General Lease – Public Agency Use, which would allow for debris removal, wetland restoration activities, and trail construction, are included herein and organized according to the resource affected. These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the CSLC. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.<sup>2</sup>
  - Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
  - Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.

Finding (3) was not required for any impacts from this Project, therefore no statement of overriding considerations is required.

These Findings are based on the information contained in the EIR and information submitted by the Applicant, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Final EIR and the MMP (Exhibit C).

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC's record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

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

**A. IMPACTS THAT ARE LESS THAN SIGNIFICANT**

The environmental resources identified below were determined by the EBRPD in the Final EIR to be less than significant prior to mitigation, therefore no mitigation is required.

- Aesthetics
- Greenhouse Gas Emissions
- Land Use and Planning
- Recreation
- Transportation and Traffic
- Utilities and Service Systems

**B. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION**

The impacts identified below were determined in the Final EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant.

1. Air Quality	AQ-1, AQ-2
2. Biological Resources	BIO-1
3. Cultural Resources	CULT-2, CULT-3, CULT-4
4. Geology and Soils	GEO-1, GEO-2, GEO-3, GEO-5
5. Hazards and Hazardous Materials	HAZ-1, HAZ-2
6. Hydrology and Water Quality	HYDRO-1
7. Noise	NOISE-1

**1. AIR QUALITY**

**CEQA FINDING NO. AQ-1**

Impact: **Impact AQ-1.** Grading and other ground disturbing activities would produce temporary fugitive dust, which could add to the amount of airborne particulates and contribute to the nonattainment designation of the San Francisco Bay Area Air Basin (SFBAAB).

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

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project include grading operations to restore wetlands. These grading operations have the potential to result in fugitive dust emissions, which could contribute to the nonattainment designation of the SFBAAB for Particulate Matter-10 microns (PM10).

Implementation of **Mitigation Measure (MM) AQ-1** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM AQ-1:** The Proposed Project would comply with the Bay Area Air Quality Management District (BAAQMD) Basic Control Measures for reducing construction emissions of PM10:

- Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 24-inches of freeboard (i.e., the minimum required space between the top of the load the top of the trailer).
- Apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.

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

#### **CEQA FINDING NO. AQ-2**

Impact: **Impact AQ-2.** Use of heavy, off-road, and on-road construction equipment would temporarily produce substantial emissions of Oxides of Nitrogen (NO<sub>x</sub>), which would exceed the BAAQMD threshold of significance and could contribute to the Ozone (O<sub>3</sub>) and particulate matter nonattainment designations of the SFBAAB.

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

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

Activities proposed as part of the Project, including removal of debris, construction of the trails, and grading, would involve the use of heavy construction equipment. Heavy construction equipment generates NO<sub>x</sub> emissions, thus implementation of the Project would temporarily produce substantial NO<sub>x</sub> emissions in excess of the BAAQMD construction threshold. These NO<sub>x</sub> emissions may, in turn, contribute to O<sub>3</sub> and particulate matter nonattainment designation of the SFBAAB.

Implementation of **MM AQ-2a** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM AQ-2a:** The construction contractor shall implement the following measures to reduce construction exhaust emissions of NO<sub>x</sub> during grading and construction activities. To assure compliance, EBRPD shall verify that these measures have been implemented during normal construction site inspections:

- The construction contractors shall use construction equipment rated by the United States Environmental Protection Agency as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower. Tier 3 engines between 50 and 750 horsepower are available for 2006 to 2008 model years. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site.
- The construction contractor shall ensure that all construction equipment is properly serviced and maintained to the manufacturer's standards to reduce operational emissions.  
The construction contractor shall limit nonessential idling of construction equipment to no more than five consecutive minutes.

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

## 2. BIOLOGICAL RESOURCES

### CEQA FINDING NO. BIO-1

Impact: **BIO-1.** Special Status Species could be harmed by the construction phase of the Project.

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

### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including grading, debris removal, and construction of a trail and boardwalk have the potential to result in harm to special status species through habitat disturbance. Special status species include the Salt Marsh Harvest Mouse (SMHM), the San Pablo Vole, several special-status bird species, and nesting birds protected by the Migratory Bird Treaty Act.

Implementation of **MMs BIO-1a through BIO-1d** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM BIO-1a:** Protocol-level surveys shall be conducted in suitable salt marsh habitat for California clapper rail and California black rail prior to construction each year of the proposed construction activity. Protocol surveys are conducted around dawn or dusk during February and March when rails are most likely to vocalize during their breeding season. If active nests are found, consultation with agency staff would be required to determine appropriate setbacks or work windows.

**MM BIO-1b:** Pre-construction nesting surveys shall be conducted for San Francisco Common Yellowthroat, Bryant’s Savannah Sparrow, San Pablo Song Sparrow, Loggerhead Shrike, Short-eared Owl, White-tailed Kite, Northern Harrier, and other nesting birds protected by the Migratory Bird Treaty Act. Surveys shall be conducted by a qualified biologist within 14 days of the onset of disturbance to nesting habitats. If nests are found, they will be flagged and a suitable buffer area established. No work will be conducted within this buffer area until young have fledged and are independent of the nest. Breeding bird surveys are not needed if work is conducted outside the nesting season (between September 1 and January 31).

**MM BIO-1c:** Pre-construction surveys carried out for California clapper rail and California black rail would also detect other tidal marsh wildlife species. Exclusion fencing shall be installed prior to construction, and vegetation shall be cleared in phases using hand tools, exclusion fencing, special status species sensitivity training, and/or biological monitors.

**MM BIO-1d:** Project-specific avoidance and minimization measures consistent with those required by the U.S. Fish and Wildlife Service (USFWS), specified as permit conditions, shall be carried out. They are likely to include: preconstruction surveys in SMHM habitat; use of hand-powered tools for initial vegetation clearing where possible; vegetation removal supervised by a Service approved biologist; re-supplying native plant seed to disturbed wetlands as a SMHM food source; use of exclusion fencing and other means to prevent trapping mice in equipment; work stoppage during extreme high tides to allow SMHM migration to higher grounds; and development of, and adherence to, a habitat mitigation and monitoring plan.

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

### 3. CULTURAL RESOURCES

<b>CEQA FINDING NO. CULT-2</b>	
Impact:	<b>CULT-2.</b> Project excavation and regrading could destroy as yet undiscovered and unrecorded archaeological remains.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including debris removal, excavation, and grading, have the potential to result in destroying undiscovered and unrecorded archaeological remains.

Implementation of **MM CULT-2** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM CULT-2:** In the event of an unanticipated discovery of archaeological deposits or remains during project implementation, construction crews shall stop all work within 100 feet of the discovery until a qualified archaeologist can assess the discovery and provide recommendations. Resources could include buried historic features, such as artifact-filled privies, wells, and refuse pits, and artifact deposits, concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile points and knives), midden (darken soil created culturally from use and containing heat-affected rock, artifacts, animal bones, or shellfish remains), and/or groundstone implements (such as mortars and pestles).

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

**CEQA FINDING NO. CULT-3**

Impact: **CULT-3.** Fossils with important scientific value and unique geological features could be unearthed during construction activities.

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

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project, including debris removal, excavation, and grading, have the potential to result in unearthing fossils with important scientific value and unique geological features.

Implementation of **MM CULT-3** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM CULT-3:** Construction contractors will be trained by EBRPD staff to recognize fossils and possible unique geological features. EBRPD will be notified if these are uncovered during construction and work will halt until the situation can be assessed by a qualified Geologist or Paleontologist who can make recommendations to avoid their destruction prior to collection, or evaluation.

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

**CEQA FINDING NO. CULT-4**

Impact: **CULT-4.** Human remains could be unearthed during construction activities.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including excavation and grading, have the potential to result in unearthing human remains.

Implementation of **MM CULT-4** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM CULT-4:** If human remains are encountered as a result of construction activities, any work in the vicinity shall stop, and the County Coroner shall be contacted immediately. In addition, a qualified archaeologist shall be contacted immediately to evaluate the discovery, if a monitor is not already present. If the human remains are Native American in origin, then the Coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification.

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

#### 4. GEOLOGY AND SOILS

##### CEQA FINDING NO. GEO-1

Impact: **GEO-1.** Strong ground shaking could damage elevated structures such as boardwalks and bridges, exposing trail users to risks.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including construction of an elevated boardwalk, have the potential to result in damage to the boardwalk and risks to trail users if strong ground shaking occurs.

Implementation of **MMs GEO-1a through GEO-1c** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM GEO-1a:** A design-level Geotechnical Investigation shall be prepared for the site under the direction of a California Registered Geotechnical Engineer, or Civil Engineer experienced in geotechnical engineering. The Geotechnical Investigation shall establish the seismic design parameters, as determined by the geotechnical engineer or civil engineer in accordance with requirements of the



California Building Code. The Geotechnical Investigation shall be reviewed and approved by the City Engineer and by the EBRPD Engineer as part of structural design review of the bridges and boardwalks.

**MM GEO-1b:** EBRPD shall apply to the City of Richmond for grading and building permits from the Planning, Engineering, and Building Divisions, and modify designs to ensure that permits are granted. This will ensure City review of grading and drainage plans; alterations to the Federal Emergency Management Agency (FEMA)-designated 100-year floodplain; and buildings and other structures such as bridges and boardwalks, and adherence to the City of Richmond Municipal Code and applicable Ordinances, including grading, drainage, and seismic design criteria for planned structures and buildings.

**MM GEO-1c:** All construction, notably foundation engineering shall be performed in accordance with the recommendations of the Geotechnical Investigation. The design plans shall identify specific mitigation measures to reduce the liquefaction potential of surface soils. Mitigation measures may include excavation and replacement as engineered fill, reduced foundation loading, and other ground improvement methods.

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

**CEQA FINDING NO. GEO-2**

Impact: **GEO-2.** Seismically induced liquefaction could damage site structures such as the restroom, boardwalks and bridges, exposing site users to risks.

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

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project, including construction of an elevated boardwalk, have the potential to result in damage to the boardwalk if liquefaction occurs.

Implementation of **MMs GEO-2a through GEO-2c** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM GEO-2a:** See MM GEO-1a.

**MM GEO-2b:** See MM GEO-1b.

**MM GEO-2c:** See MM GEO-1c.

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

**CEQA FINDING NO. GEO-3**

**Impact:** **GEO-3.** Ground disturbance and soil cut and fill could result in soil erosion and siltation to the Bay, wetlands, and other sensitive plant and wildlife habitat.

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

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project, including debris removal, excavation, and grading, have the potential to result in erosion of the restoration area and siltation in San Francisco Bay, wetlands, and other sensitive plant and wildlife habitat.

Implementation of **MMs GEO-3a and GEO-3b** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM GEO-3a:** EBRPD shall complete an Erosion Control and Revegetation Plan to be submitted to the City of Richmond in conjunction with the Grading Permit Application. The Erosion Control and Revegetation Plan shall include winterization, dust control, erosion control, and pollution control measures conforming to the Association of Bay Area Government (ABAG) Manual of Standards for Erosion and Sediment Control Measures and the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook Portal: Construction. The Erosion Control Plan shall describe the “Best Management Practices” (BMPs) to be used during and following construction to control pollution resulting from both storm and construction water runoff. The Plan shall include locations of vehicle and equipment staging, portable restrooms, mobilization areas, and planned access routes.

Recommended soil stabilization techniques include: placement of straw attles, silt fences, berms, and gravel construction entrance areas or other control to prevent tracking sediment onto city streets and into storm drains.

**MM GEO-3b:** EBRPD shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Proposed Project. The SWPPP and Notice of Intent must be submitted to the State Water Resources Control Board to receive a Construction General Permit. The updated plan shall address National Pollutant Discharge Elimination System (NPDES) requirements and be designed to protect water quality both during and after construction. The Project SWPPP shall include a description of the BMPs used to prevent the discharge of other construction-related NPDES pollutants beside sediment (i.e., paint, concrete, etc.) to downstream waters and adjacent Bay waters. After construction is completed, all drainage facilities shall be inspected for accumulated sediment from the project, and these drainage structures shall be cleared of debris and sediment.

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

**CEQA FINDING NO. GEO-5**

Impact: **GEO-5.** Shrinking and swelling of expansive soils that occur on the project site could damage public access facilities and cause heaving and cracking.

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

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project, including construction of an elevated boardwalk, have the potential to result in damage to the boardwalk due to the structure's location on expansive soils. The shrinking and swelling of expansive soils may cause heaving and cracking in the boardwalk.

Implementation of **MMs GEO-5a through GEO-5d** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM GEO-5a:** See MM GEO-1a

**MM GEO-5b:** See MM GEO-1b

**MM GEO-5c:** See MM GEO-1c

**MM GEO 5d:** A design-level Geotechnical Investigation shall be prepared for the site under the direction of a California Registered Geotechnical Engineer or a Civil Engineer experienced in soils and foundation design and shall include analysis for expansion potential of the site soils. Proper foundation engineering and construction shall be performed in accordance with the recommendations of the Geotechnical Investigation. The Geotechnical Investigation shall be reviewed and approved by the EBRPD Project Engineer and the City Engineer, as appropriate. The design plans shall identify specific mitigation measures to reduce the effects of expansive surface soils. Mitigations measures may include the following: excavate expansive soils and replace with at least 1 foot of non-expansive fill. Design and construct structures to withstand expected stresses by the implementation of the following: minimize use of slab-on-grade floors; support buildings and slabs on non-expansive materials; chemically treat expansive materials to reduce expansion potential; avoid siting structures across soil materials of substantially different expansive properties; extend foundations below the zone of seasonal moisture change; utilize pier-and-grade-beam foundation systems where appropriate; utilize special bending resistant design; and prevent accumulation of surface water adjacent to buildings.

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

## 5. HAZARDS AND HAZARDOUS MATERIALS

### CEQA FINDING NO. HAZ-1

Impact: **HAZ-1.** The proposed trail route would be within a few tens of feet of the underground Shell pipeline on the eastern side of the Project Site and construction could damage the pipeline.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including debris removal, grading, pile driving, and construction of a trail and boardwalk, have the potential to result in damage to Shell oil pipeline on the Eastern side of the Project site.

Implementation of **MM HAZ-1** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM HAZ-1:** Fill placement within a zone 10 feet either side of a known pipeline location, or excavation within 25 feet, would be avoided if possible. If field conditions dictate a reduced distance in certain locations, the absolute minimum distance for excavation would be 5 feet from any high risk utility pipeline. No more than 1 foot of additional fill shall be placed on top of a pipeline. Existing markers shall be relocated as needed.

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

### CEQA FINDING NO. HAZ-2

Impact: **HAZ-2.** Contamination from past pipeline leaks other petroleum chemicals formerly used on the project site, could be discovered during grading.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including debris removal and grading, have the potential to result in discovery of contamination from past pipeline leaks of petroleum chemicals on the Project site.

Implementation of **MM HAZ-2** has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM HAZ-2:** If any oil-stained soil, or soil with a strong petroleum odor is discovered during project site grading, work will halt, samples will be taken, and the excavation will be covered until the results are received. If contamination above regulatory limits is found, the contaminated soil shall be remediated in accordance with standard procedures.

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

## 6. HYDROLOGY AND WATER QUALITY

### CEQA FINDING NO. HYDRO-1

Impact: **HYDRO-1.** During construction the proposed project could potentially violate water quality standards or waste discharge requirements if sediment-laden runoff from disturbed work areas enters local waterways and increases turbidity or if fuel or other construction chemicals are accidentally spilled or leaked into the water.

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

### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including grading and excavation, have the potential to result in sediment-laden runoff causing turbidity in nearby water bodies. Accidental leaks or spills of fuel or other chemicals from construction equipment could occur. Turbidity and accidental spills could violate water quality standards or waste discharge requirements, respectively.

Implementation of **MMs HYDRO-1a through HYDRO-1c** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM HYDRO-1a:** Detailed plans for temporary construction related erosion control shall be incorporated in the project plans.

Construction plans shall specify all erosion and sediment control measures, including (where applicable):

- Limiting access routes and stabilizing access points.
- Stabilizing graded areas as soon as possible with seeding, mulching, erosion control materials or other effective methods.
- Delineating clearing limits, easements, setbacks, sensitive areas, vegetation and drainage courses by marking them in the field.
- Stabilizing and preventing erosion from temporary conveyance channels and outlets.

If rainfall occurs, using sediment controls and filtration to remove sediment from water collected on-site during construction.

**MM HYDRO-1b:** A SWPPP and a Spill Control and Countermeasures Plan (SCCP) shall be prepared by construction contractor Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the CASQA. The SWPPP shall include BMPs to prevent or minimize stormwater pollution during construction activities, and post construction.

The project Erosion Control and Revegetation Plan, and a SCCP, shall be included in the SWPPP, and in the Construction Documents. BMPs shall be prepared and implemented to control short-term construction-related water quality impacts. BMPs shall include at a minimum the following measures:

- Use temporary measures, such as flow diversion, temporary ditches, and silt fencing or straw wattles.
- Surface disturbance of soil and vegetation shall be minimized; existing access and maintenance roads shall be used wherever feasible.
- Any stockpiled soil shall be placed, sloped, and covered so that it would not be subject to accelerated erosion.
- Accidental discharge of all project-related materials and fluids into local waterways shall be avoided by using straw rolls or silt fences, constructing berms or barriers around construction materials, or installing geofabric in disturbed areas with long, steep slopes.
- After ground-disturbing activities are complete for each area, all graded or disturbed areas shall be covered with protective material such as mulch, and re-seeded with native plant species. The Erosion Control and Revegetation Plan shall include details regarding site preparation, topsoiling, seeding, fertilizer, mulching, and temporary irrigation.

**MM HYDRO-1c:** All refueling and/or maintenance of heavy equipment shall take place at a minimum of 50 feet away from all identified jurisdictional wetlands and Waters of the US drainage courses. The refueling/maintenance and construction staging area shall be bermed, graveled, or covered with straw and incorporate measures for capture of any accidental spills.

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

## 7. NOISE

### CEQA FINDING NO. NOISE-1

Impact: **NOISE-1.** Noise from impact pile driving methods (for the installation of piers for the portions of the Giant Marsh boardwalk running parallel to the rail lines) could be annoying to closest neighbors in Parchester Village and would be above the weekday allowable limits for stationary construction equipment.

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

### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project, including pile driving for construction of a boardwalk, have the potential to result in exceedance of the City of Richmond's noise ordinance for construction equipment.

Implementation of **MMs NOISE-1a through NOISE-1b** have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM NOISE-1a:** Parchester Village residents shall be notified one week before, and again 24 hours prior to the start of pile installation across Giant Marsh. Activities shall be restricted to weekdays between 9:00 a.m. and 5:00 p.m.

**MM NOISE-1b:** Impact pile driving shall not be used to install piers within 700 feet of the residences. Suitable alternative techniques could include (but are not necessarily limited to) Auger Cast Piles (large diameter hollow stem auger with steel rebar and concrete installed prior to/during auger removal); Torque-down Piles (steel pipe pile drilled in place then filled with concrete); Micro-piles (Steel piles sized for corrosion protection with a concrete pile cap); Steel H-beams sized for corrosion protection and installed using vibratory hammer (no pounding and with concrete pile cap above the surface for corrosion protection); and/or Helical piles (screw piles with concrete cap). The selected pile installation equipment shall have a noise level less than 86 dBA Lmax at 50 feet for fullload operations and including work-piece noise contributions.

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