

**STAFF REPORT
C31**

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04/05/19
PRC 8640.9
D. Tutov

AMENDMENT OF LEASE

APPLICANT /LESSEE:

East Bay Regional Park District

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the area known as the Bay Point Regional Shoreline, Suisun Bay, adjacent to 1001 McAvoy Road, near Pittsburg, Contra Costa County.

AUTHORIZED USE:

Continued use and maintenance of open space.

LEASE TERM:

10 years, beginning October 20, 2015.

CONSIDERATION:

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

PROPOSED AMENDMENT:

Amend the lease to:

- In Section 1, Basic Provisions:
 - Replace the current Land Use or Purpose with: Construction, use, and maintenance of a kayak launch ramp and a park trail and continued use and maintenance of open space.
- In Section 1, Authorized Improvements:
 - Under "To be Constructed:", add construction of a kayak launch ramp and a park trail.
- Add special lease provisions related to the construction of the kayak launch ramp and a park trail.

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- Replace the existing Exhibit B, Site and Location Map, with the attached Exhibit B, Site and Location Map (for reference purposes only).
- Add Exhibit C, Mitigation Monitoring Program.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and the State's Best Interests Analysis:

On October 20, 2005, the Commission authorized a General Lease - Public Agency Use to the East Bay Regional Park District (District) for open space, ([Item C28, October 20, 2005](#)). This lease expired on October 19, 2015. On October 16, 2015, the Commission authorized a General Lease - Public Agency Use for the continued use and maintenance of open space ([Item C37, October 16, 2015](#)). That Lease will expire on October 19, 2025. The District is now applying for an amendment to construct a kayak launch ramp and raise an existing park trail.

The Bay Point Regional Shoreline is a 51-acre park with a 1.1-mile loop trail that provides access to undeveloped open space and marsh habitat in an area surrounded by residential, military, and industrial development. The park provides opportunities for the public to enjoy hiking, bird-watching, shoreline fishing, and other recreational activities. North of the park is the 80-acre State parcel leased to the District as open space.

The District has proposed a project to construct a kayak launch ramp and raise the existing park trail to an elevation of 13 to 15 feet. The project will also restore and enhance approximately 30 acres of wetland, channel, transitional, and upland habitat. Marsh and upland areas will be planted and seeded with native vegetation to enhance habitat. The public access features are designed to be resilient to 3.5 to 5.5 feet of sea-level rise and will include overlook areas with interpretive signage, trash containers, benches, and flush restrooms. The portion of the Project located on State sovereign land would be less than an acre and will include a portion of the trail's base and the kayak launch ramp.

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Bay Point is an underserved area with few existing recreational opportunities and access to nature. The Project, tentatively scheduled to begin in the fall of 2019, will provide recreational opportunities to the community including hiking, wildlife/bird viewing, fishing, kayaking, picnicking, and educational and interpretive opportunities.

The proposed Project is consistent with the common law Public Trust Doctrine because it will promote public access and water-oriented activities. The proposed lease amendment includes certain provisions protecting the public use of the lease area by requiring the District to obtain necessary permits for the project. The District also adopted a Mitigation Monitoring Program to substantially reduce or eliminate potentially significant impacts resulting from the project. The lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also has a limited term of 10 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in Suisun Bay, which is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area would be at a higher risk of flood exposure given future projection scenarios of sea-level rise. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure.

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

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Table 1. Projected Sea-Level Rise for San Francisco¹

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

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

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

Revisions to the Bay Point Regional Shoreline Land Use Plan include marsh restoration grading based on updated sea-level rise estimates, revised tidal inlet location, and enhancement of the Harrier Loop Trail for sea-level rise resiliency including a tidal slough crossing and an elevated (4 feet above the ground surface) helical-pier-supported aluminum boardwalk system. The slope adjacent to the trail would be considered a transitional area that would provide room for sea-level rise accommodation and also a buffer between public use and sensitive wildlife species in tidal marsh communities. The slope may be seeded with species such as saltgrass and alkali heath, or planted with plugs of species such as Baltic rush, American bulrush, pickleweed, and marsh gumplant to decrease erosion.

The slope of the trail may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid erosion. Regular maintenance and monitoring, as required by the terms of the lease, would reduce the likelihood of severe structural degradation.

Conclusion:

For all the reasons above, staff believes the amendment of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

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2. A Mitigated Negative Declaration (MND), State Clearinghouse No. 2000122088, was prepared by the District and adopted on February 20, 2001. In addition, an Addendum to the MND was approved by the District on December 5, 2017, for this project. Commission staff has reviewed these documents.

A Mitigation Monitoring Program was adopted by the District.

3. 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 nominating agency's participation in the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

Contra Costa County

APPROVALS OBTAINED:

San Francisco Bay Conservation and Development Commission
San Francisco Regional Water Quality Control Board
U.S. Army Corps of Engineers
U.S. Fish and Wildlife

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2000122088, and a Mitigation Monitoring Program were prepared by the District and adopted on February 20, 2001, and an Addendum to the MND was approved by the District on December 5, 2017, for this Project and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease amendment to be issued by this authorization has been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more

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severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

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

SIGNIFICANT LANDS INVENTORY FINDING:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 8640.9, a General Lease – Public Agency Use, effective April 5, 2019, to authorize the construction, use, and maintenance of a kayak launch ramp and a park trail; include special lease provisions related to the construction; include Exhibit C, Mitigation Monitoring Program; and replace the existing Exhibit B, Site and Location Map, with the attached Exhibit B, Site and Location Map (for reference purposes only).

EXHIBIT A

PRC 8640.9

LAND DESCRIPTION

Three parcels of State owned land, situated in Contra Costa County, in the State of California, described as Parcel 1, Parcel 2 and Parcel 3 in that certain Grant Deed recorded June 22, 1989 as Document No. 89 116108 in Book 15148 at page 91 in Official Records of said County.

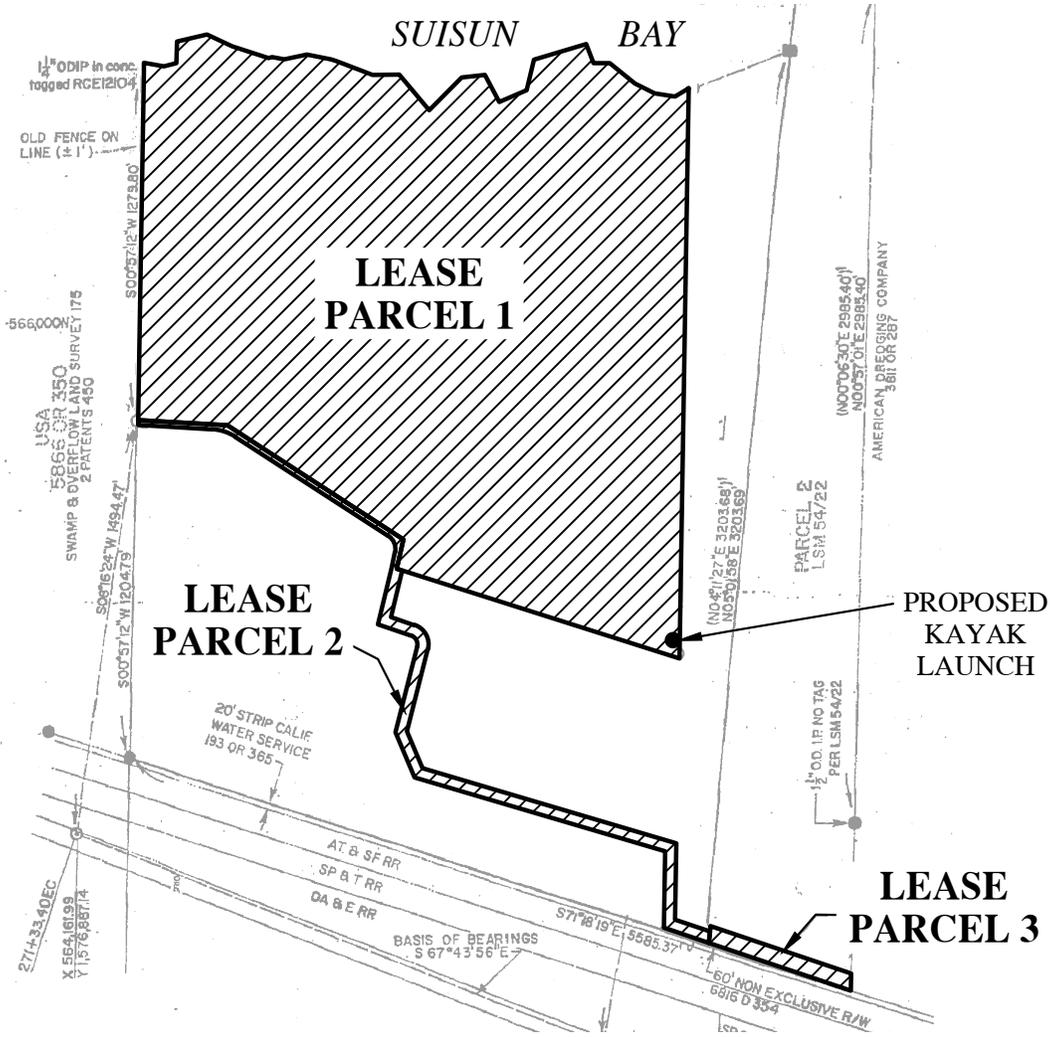
END OF DESCRIPTION

Prepared 08/21/2015 by California State Lands Commission Boundary Unit



NO SCALE

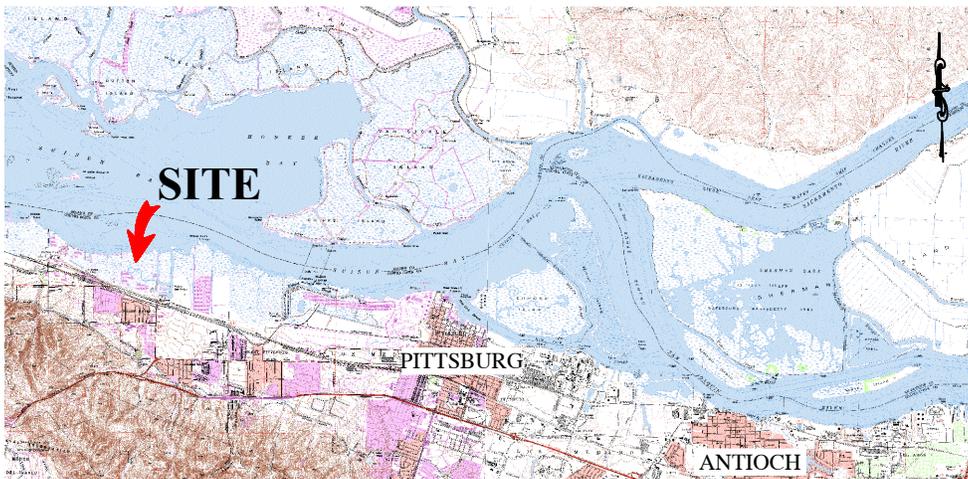
SITE



1001 MCAVOY ROAD, PITTSBURG, SUISUN BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8640.9
 EAST BAY REGIONAL
 PARK DISTRICT
 APN 098-020-022
 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.

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EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
BAY POINT REGIONAL SHORELINE LAND USE PLAN
(PRC 8640, State Clearinghouse No. 2000122088)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Bay Point Regional Shoreline Land Use Plan (Project). The CEQA lead agency for the Project is East Bay Regional Park District (District).

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

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

The District, as lead agency, has adopted an MND and Addendum, State Clearinghouse No. 2000122088, and a MMP for the whole of the Project (see Exhibit C, Attachment C-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure or avoidance and minimization measure, as set forth in the MMP or MND prepared by the CEQA lead agency and listed in Table C-1, and is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

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

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

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

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMP
Air Quality	AQ-1 and AQ-2	None
Biological Resources	BIO-1, BIO-4, BIO-5, BIO-6, and BIO-7	None
Hazardous Materials	HAZ-1, HAZ-2, and HAZ-3	None
Water Quality	WQ-1 and WQ-2	See Below
Noise	N-1	None
Cultural Resources	CR-1, CR-2	See CR-1 below
Avoidance and Minimization Measures³		
Biological Resources	AM-1	None
Biological Resources	AM-2	None
Biological Resources	AM-3	None
Water Quality	AM-4	None

[WQ-1] Petroleum pollution shall be controlled by proper maintenance of equipment. Containment booms and absorbent mats shall be used to contain and clean up any petroleum products inadvertently discharged during construction. Refueling of equipment shall not be performed on State Lands.

[CR-1] If unanticipated cultural resources should be encountered during construction, all ground-disturbing activities shall be halted within at least 50 feet until evaluated by an archaeologist, in accordance with state and federal law. This is standard Park District protocol for protecting parkland archaeological sites (EBRPD Board Resolution 1989-4-124). Furthermore, if human remains were to be encountered, the Park District policy requires consultation with the county coroner and Native American "most likely descendants," to determine the appropriate treatment of the remains, in accordance with state and federal law. Commission staff shall be notified of any significant cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources and paleontological specimens from such lands must be approved by the Commission. If the human remains are found on lands under the jurisdiction of the Commission, Commission staff shall also be notified to address any landowner responsibilities.

² See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency. Due to the lack of numbering or titles on the Applicant's MMs, numbers have been assigned for easier reference.

³ See Attachment C-2 for the full text of each AM taken from the MND prepared by the CEQA lead agency. Due to the lack of numbering or titles on the Applicant's MMs, numbers have been assigned for easier reference.

ATTACHMENT C-1

Mitigation Monitoring Program Adopted by the

East Bay Regional Park District

**BAY POINT REGIONAL SHORELINE
LAND USE PLAN
February 2001**

**MITIGATION MONITORING PROGRAM
RESPONSIBILITY MATRIX**

	Mitigation Measure	Timing	Performance Objective	Responsible for Implementing	Responsible for Monitoring
AQ-1	Standard EBPRD contract specifications regarding dust control shall be followed (Article 21 (b)). These specifications provide that a dust palliative or water (in sensitive habitats) shall be used by the contractor for dust control.	During construction	Comply with contract conditions.	Contractor	EBRPD Construction Inspector
AQ-2	Standard Bay Area Air Quality Management District control measures (as listed in Table 2, BAAQMD 1996) shall be implemented. These measures include: controlling dust with watering, palliatives, or hydroseed, as specified; covering dump trucks; sweeping streets and paved access roads; limiting traffic speeds on unpaved roads; and erosion control measures.	During construction	(Project Designer to determine which measures need to be implemented.)	Design Dept., Contractor	EBRPD Construction Inspector
BIO-1	Trees and other vegetation (as appropriate) will be planted to minimize the direct line of sight between humans and sensitive wildlife in high-use areas such as the staging area.	During design	Parking lot should not be visible from marsh.	Design Dept., Contractor	Design Dept.
BIO-2	Trees will be planted at the staging area to provide additional habitat for a variety of passerine birds, including shrikes and raptors.	During design	Plant trees that support these species.	Design Dept., Contractor	Design Dept.

	Mitigation Measure	Timing	Performance Objective	Responsible for Implementing	Responsible for Monitoring
BIO-3	To reduce vandalism and help prevent free-roaming pets from accessing the site, a cyclone fence will be constructed on the south perimeter of the site. This fence will connect to existing fencing on the west and east perimeters of the site.	During design	Fence installation to be included in construction contract. Must be designed to prevent free-roaming pets (as much as possible) from entering park.	Design Dept., Contractor	Design Dept.
BIO-4	Because the marsh restoration will be conducted in U.S. Army Corps of Engineers' jurisdictional water bodies, EBRPD shall comply with all terms and conditions specified under a permit to be obtained (pursuant to Section 404 of the federal <i>Clean Water Act</i>), including:	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
	EBRPD shall consult with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the San Francisco Bay Regional Water Quality Control Board, as applicable.	During design	Comply with permit requirements.	Design Dept., Stewardship Dept.	EBRPD Construction Inspector
	Heavy equipment working in wetlands must be placed on mats or other measures taken to minimize soil disturbance.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
	Breaching the levee, to allow tidal water to inundate the site, will not be done until the grading within the marsh restoration area is complete. If necessary, this will occur in the year following major construction.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
BIO-5	EBRPD shall comply with all terms and conditions (under the authority of Section 1601 of the California <i>Fish and Game Code</i>), including:	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector

Mitigation Measure	Timing	Performance Objective	Responsible for Implementing	Responsible for Monitoring
Heavy equipment shall not be used in the seasonal non-tidal ponds without prior approval and according to conditions determined by the CDFG.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
In order to minimize the potential impact of construction on special-status plant species, a pre-construction survey will be conducted to determine their occurrence and location. The survey will be timed to maximize species identification and will be focused on the areas where both the special-status plant species are likely to occur and where construction is proposed. This includes the tidal marsh area where the channel will be dredged (from the SLC property to the District property) and on the sides of existing levees within the proposed marsh restoration area. If special-status plant species occur on the site, strategies to ensure that these species will continue to occur will be developed in conjunction with the appropriate agencies. These strategies may include: avoiding areas where the special-status species occur, collecting propogules prior to construction, leaving a seed source on the site, and/or transplanting plants.	In the flowering season prior to construction	Comply with permit requirements.	Design Dept.; Stewardship Dept.	Stewardship Manager; Ecological Services Coordinator

Mitigation Measure	Timing	Performance Objective	Responsible for Implementing	Responsible for Monitoring
To avoid invasion of undesirable non-native plant species after construction, native species will be planted in the upland areas where this invasion is most likely to occur. The site will be monitored and appropriate vegetation control techniques will be implemented as required.	During design	Comply with permit requirements.	Design Dept.	Stewardship Manager; Ecological Services Coordinator
To avoid disturbing wildlife, prescribed burning will be conducted during the non-breeding season.	As needed for weed control.	Comply with permit requirements.	Integrated Pest Management Coordinator	Stewardship Manager; Ecological Services Coordinator
To avoid disturbing special-status wildlife species, including California black rail and white-tailed kites, marsh restoration will occur in the non-breeding season.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
Throughout the marsh restoration and construction, habitat refuges and wildlife corridors will be left to allow salt marsh harvest mouse and other species opportunities to move into undisturbed areas. Construction will begin in the northernmost section of the marsh and will proceed south, allowing the salt marsh harvest mouse to disperse into the pickleweed area surrounding the seasonal pond.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
To minimize impacts to special-status fish species, dredging and working in the open water will occur between August 15 and October 15.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector

	Mitigation Measure	Timing	Performance Objective	Responsible for Implementing	Responsible for Monitoring
	Construction will be limited to daylight hours, and construction workers will not be allowed to bring pets or smoke on the site.	During construction	Comply with permit requirements.	Contractor	EBRPD Construction Inspector
BIO-6	To contain and prevent sediments from entering the aquatic system, erosion fabric shall be placed at the toe of north-facing slopes with a gradient of 5:1 or steeper on the islands and uplands within the marsh restoration area.	During design	Project design shall include erosion fabric according to these standards.	Design Dept.	Chief, Design Dept.
BIO-7	Prior to finalizing the design of the marsh restoration, a materials characterization report shall be prepared and submitted to the appropriate regulatory agencies. Testing shall be conducted on both the materials to be moved and on materials that will be exposed after excavation has been completed. If required, a water quality plan shall be prepared and submitted to the RWQCB.	During design	Report shall be prepared according to standards of RWQCB or the Division of Toxic Substances Control (DTSC).	Design Dept.	Water Quality Specialist
HAZ-1	If contaminants are found on the site, a health and safety plan may be required to protect workers from short-term exposure to contaminants and shall be implemented in accordance with regulatory agency requirements.	During design	Plan shall be prepared according to standards of RWQCB or the Division of Toxic Substances Control (DTSC).	Design Dept.	Water Quality Specialist; EBRPD Construction Inspector
HAZ-2	If contaminants are found on the site, the contaminated soil will need to be capped with clean fill, treated on-site, or disposed of off-site in the appropriate disposal site. The most cost-effective treatment, in compliance with regulatory requirements, shall be implemented as required.	During design and construction	Treatment to be conducted according to standards of RWQCB or the Division of Toxic Substances Control (DTSC).	Design Dept., Contractor	EBRPD Construction Inspector
HAZ-3	Standard EBRPD contract specifications regarding hazardous materials shall be implemented (Article 23).	During construction	Comply with contract conditions.	Contractor	EBRPD Construction Inspector

	Mitigation Measure	Timing	Performance Objective	Responsible for Implementing	Responsible for Monitoring
WQ-1	Petroleum pollution shall be controlled by proper maintenance of equipment. Containment booms and absorbent mats shall be used to contain and clean up any petroleum products inadvertently discharged during construction.	During construction	Project design shall include these precautions in the contract provisions where the designer sees fit.	Design Dept.	EBRPD Construction Inspector
WQ-2	Standard EBRPD contract specifications regarding water quality shall be implemented (Article 21a).	During construction	Comply with contract conditions.	Contractor	EBRPD Construction Inspector
N-1	Standard EBRPD contract specifications regarding noise abatement shall be implemented (Article 42). Construction activities will be limited to workdays between 7 a.m. and 7 p.m.	During construction	Comply with contract conditions.	Contractor	EBRPD Construction Inspector
CR-1	If unanticipated cultural resources should be encountered during construction, all ground-disturbing activities shall be halted within at least 50 feet until evaluated by an archaeologist, in accordance with state and federal law. This is standard Park District protocol for protecting parkland archaeological sites (EBRPD Board Resolution 1989-4-124). Furthermore, if human remains were to be encountered, the Park District policy requires consultation with the county coroner and Native American "most likely descendants," to determine the appropriate treatment of the remains, in accordance with state and federal law.	During construction	Comply with Board Resolution 1989-4-124 and standard contract conditions.	Contractor	EBRPD Construction Inspector
CR-2	Standard EBRPD contract specifications regarding the protection of historic resources and human remains shall be implemented (Article 22).	During construction	Comply with Board Resolution 1989-4-124 and standard contract conditions.	Contractor	EBRPD Construction Inspector

ATTACHMENT C-2

Avoidance and Minimization Measures Adopted by the East Bay Regional Park District

4. Impact Avoidance and Minimization

In addition to the mitigation measures identified in the 2001 IS/MND, which remain in force, the 2017 Restoration and Public Access Plan incorporates as part of the project the following avoidance and minimization measures.

AM-1

Design for Avoidance of Protected Species and Sensitive Habitat

The project design includes the preservation of existing habitats within the primary grading area. These habitats will be properly surveyed prior to finalization of construction plans and will be staked in the field before construction to limit impacts to existing vegetation. Where wetlands or other water features must be disturbed, the minimum area of disturbance necessary for construction will be identified and the area outside avoided.

To isolate construction of the tidal channel connection from the J channel, a silt curtain with floating boom will be installed across the J channel. The silt curtain will accomplish the following:

- Isolate construction activities from the open water J channel
- Contain turbidity and sediment resulting from construction activity
- Exclude fish (that may be occupying the J channel) from accessing the active construction area
- Allow water to pass between the J channel and new channel with the tides

The silt curtain will be installed both from a small watercraft and from land approximately 50 feet from the terminus of the channel and span the 100+ ft channel. The curtain will be at least 5 ft tall to maintain a barrier at high tide (MHHW=6 ft NAVD; existing bed elevations in the J channel range from 1-2 ft NAVD). The curtain will consist of permeable filter fabric supported by a line of floats (boom) on the water surface and a line of weights/anchors on the bottom to secure the curtain to the channel bed to maintain coverage (and construction area isolation) across the wetted area of the channel throughout the tidal cycle. The curtain would be secured to land with anchors at the channel banks to hold the curtain in place and to keep it extended across the channel. Once excavation is completed, the silt curtain would be removed both from a small watercraft and from land to allow for full connection with the restoration site and the J Channel.

AM-2

Seasonal Work Restrictions

To avoid disturbing special-status wildlife species, including Ridgeway’s rail, California black rail, and white-tailed kites, marsh restoration will occur in the non-breeding season unless approved protocol surveys are conducted and work zone exclusion buffers established. To minimize impacts to special-status fish species, dredging and working in the open water will occur between August 15 and October 15. Pre-construction surveys for special-status species will be conducted by a qualified biologist prior to vegetation clearing or other ground disturbing activities. Surveys will focus on potential habitat that could support special-status species and be disturbed by construction activities. Methods will follow approved protocols appropriate for each species. Species that shall be surveyed for prior to construction include Ridgeway’s rail, California black rail, salt marsh harvest mouse, western pond turtle, special-status plants, and nesting birds.

- AM-3 | Contractor Worker Training
All on-site personnel will be trained by a qualified biologist² before construction begins, to be aware of the sensitive environment in which they will be working and how best to protect wetlands and special-status plant and animal species.
- AM-4 | Erosion and Sediment Control
A Stormwater Pollution Prevention Plan (SWPPP) will be prepared by a Qualified SWPPP Developer, and a Qualified SWPPP Practitioner will oversee its implementation. The SWPPP will include site-specific measures to reduce or eliminate sediment or pollutants generated during construction from entering wetlands or waters. Measures may include, for example, installing sediment barriers like silt fencing and fiber rolls, maintaining equipment and vehicles used for construction, and other Best Management Practices [BMPs].

III. ANALYSIS OF POTENTIAL ENVIRONMENTAL EFFECTS

The following section discusses environmental topics and related environmental effects in the 2001 IS/MND, to compare the 2001 Land Use Plan and the Proposed Project. These topics are listed in the sequence that they are addressed in the 2001 IS/MND. Three additional topics are discussed below. These topics (Forest Resources (which is added to 2. Agricultural Resources, below), 7. Greenhouse Gases, and 17. Tribal Cultural Resources) were not evaluated in the 2001 IS/MND because they were added to the Initial Study checklist at a later date. These three topics have been inserted below, in the sequence they appear in the current Initial Study checklist. This section concludes by determining that all of the mitigation measures from the 2001 IS/MND remain intact.

A. ENVIRONMENTAL TOPICS ANALYZED IN 2001 LAND USE PLAN

1. Aesthetics

The 2001 IS/MND found that the 2001 Land Use Plan would have no impact on scenic vistas, scenic resources, visual character of the site and its surroundings, and light and glare. The components of the Proposed Project, including the revised habitat restoration, staging area improvements, trail improvements, and non-motorized watercraft launch, have aesthetic characteristics similar to those of the 2001 Land Use Plan, and none of the components of the Proposed Project would create aesthetic impacts that are substantially different or greater than those of the 2001 Land Use Plan.

No new or substantially more severe significant effects would occur and no additional mitigation measures are required.

2. Agricultural and Forest Resources

² The term “qualified biologist” is defined as an individual who shall possess, at a minimum, a bachelor’s degree in biology, ecology, wildlife biology or closely related field and has demonstrated prior field experience using accepted resource agency techniques for the survey prescribed, and who possesses all appropriate USFWS, NMFS, and CDFW permits.