

**Lower Mission Creek Flood Control Project
Santa Barbara Flood Control and Water Conservation District
CEQA Findings and Statement of Overriding Considerations
May 2011**

Attachment 3

1.0 CEQA FINDINGS

1.1 CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

FINDINGS PURSUANT TO PUBLIC RESOURCES CODE SECTION 21081 AND THE
CEQA GUIDELINES SECTIONS 15090 AD 15091:

The Lower Mission Creek Flood Control Project is a U.S. Army Corps of Engineers project. The City of Santa Barbara (City) is the lead agency under CEQA and the Santa Barbara Flood Control and Water Conservation District (District) is a responsible agency under CEQA. As the lead agency, the City Planning Commission approved and adopted the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Lower Mission Creek Project on June 28, 2001. The City has also adopted Findings related to mitigation measures and project alternatives and a Statement of Overriding Considerations. The Board has reviewed each of the mitigation measures and alternatives identified in the EIS/EIR that may pertain to the District's jurisdiction of this project. Some of the mitigation measures in the EIS/EIR apply to construction areas that are outside of the District's project area and therefore will not apply to County implemented portions of the proposed project and are not included in this document.

As a Responsible Agency, The Board of Director's role is limited as follows:

"A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carryout, finance or approve." (CEQA Guidelines § 15096(g)(1)).

A. CONSIDERATION OF THE EIS/EIR

The Final EIS/EIR for the Lower Mission Creek Flood Control Project was presented to the Board of Directors, acting as the Responsible Agency, and all voting members of the Board have reviewed and considered the EIS/EIR for the Lower Mission Creek Flood Control Project, its appendices and technical studies prior to approving this proposal. The Final EIS/EIR, and associated appendices and reports reflect the independent judgement of the Board of Directors and are adequate for this proposal.

B. FULL DISCLOSURE

The Board of Directors finds and accepts that the Final EIS/EIR constitutes a complete, accurate, adequate and good faith effort at full disclosure under CEQA. The Board of Directors further finds and accepts that the Final EIS/EIR has been completed in

compliance with CEQA.

C. LOCATION OF DOCUMENTS

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Deputy Director of the Water Resources Division, Santa Barbara County Public Works, located at 123 E Anapamu St, Santa Barbara, Ca 93101 and the Los Angeles District office of the U.S. Army Corps of Engineers.

D. ENVIRONMENTAL REPORTING AND MONITORING PROGRAM

Pursuant to Public Resources Code Section 21081.6, the Board hereby adopts the approved project description and mitigation measures, with their corresponding mitigation monitoring requirements, as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation and mitigation or avoidance of significant effects on the environment.

E. FINDINGS THAT CERTAIN UNAVOIDABLE IMPACTS ARE MITIGATED TO THE MAXIMUM EXTENT FEASIBLE (CLASS I IMPACTS)

The Lower Mission Creek Flood Control Project EIS/EIR identifies significant unavoidable cultural resources and aesthetic impacts. No feasible mitigation measures have been identified which could reduce these impacts to a less than significant level as discussed below. To the extent the impacts remain unavoidable, such impacts are acceptable when weighed against the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations included herein.

Cultural Resources: This project will result in significant and unavoidable cultural resources impacts due to the complete or partial removal of the following structure within the District's portion of the proposed project:

- Waterfront Neighborhood (Portions may be National Register Eligible). The District portion of the project will result in the removal of a structure within the 100 block of Chapala Street. The project goals cannot be met without the removal of this structure therefore there is no feasible mitigation that can avoid or substantially lessen this impact related to cultural resources.

Aesthetics: Aesthetically/visually the creek would be improved overall at the completion of this project with the habitat expansion zones, riparian vegetation planted along the upper walls in portions of the project and aesthetic treatments on the walls, however, the project would result in significant and unavoidable aesthetic impacts due to the use of vertical walls throughout the project reach to meet project goals of increased channel capacity. Therefore there is no feasible mitigation that can avoid or reduce this impact to a less than significant level.

During construction of the project, excavation of the creek, stabilization of the creek banks, stockpiling of excavated material and staging area for parking equipment would have significant visual impacts. Construction-related impacts

are significant but short-term and conditions will return to normal after construction is complete. There are no feasible mitigation measures that would avoid or reduce the short-term construction related aesthetic impacts to less than significant.

F. FINDINGS THAT CERTAIN IMPACTS ARE MITIGATED TO INSIGNIFICANCE BY CONDITIONS OF APPROVAL (CLASS II IMPACTS).

The Lower Mission Creek Flood Control Project EIS/EIR identified ten subject areas for which the proposed project is considered to cause or contribute to significant, but mitigable environmental impacts (Class II). The subject areas are geology, water resources, air quality, biological resources, land use, socioeconomic, aesthetic, recreation, hazardous, toxic and radioactive waste, and safety. With implementation of mitigation measures identified in the Final EIS/EIR, and outlined below, the Board of Directors finds that these impacts would be reduced to less than significant levels.

1. Construction and maintenance-related water quality impacts will be mitigated to less than significance by prohibiting construction and maintenance during flowing water or heavy rains and from December 1st through April 1st. A low flow diversion channel will be established during construction and maintenance. Water Quality Certification conditions have been met. A Storm Water Pollution Prevention Plan (SWPP) will be prepared prior to construction and implemented. All stockpiles and equipment storage will be prohibited within the creek banks.
2. Construction and maintenance-related air quality impacts from fugitive dust increases will be mitigated to less than significant by watering the construction and maintenance areas daily, covering material transported in trucks, limiting vehicle speeds and ceasing grading and earth movement when wind speeds exceed 20 mph.
3. Construction-related noise impacts will be partially mitigated and maintenance-related noise impacts will be mitigated to less than significance by following the City of Santa Barbara Noise Ordinance, prohibiting construction between 7:00 PM and 7:00 AM, prohibiting heavy equipment operation before 8:00 AM and after 7:00 PM, prohibiting all construction on Sundays, and holidays and requiring truck traffic to follow designated routes.
4. Construction-related impacts on the steelhead trout will be mitigated to less than significance by prohibiting construction in flowing water between December 1st and March 31st, prohibiting construction in the estuary between December 1st and May 31st, requiring a biologist to survey the area for steelhead prior to commencement of construction, placement of ledges, rocky side baffles, and mid-stream boulder clusters in the project area; construction and alignment of a pilot channel; construction and alignment of a weir above U.S. Highway 101, and establishment of a natural bottom throughout the project area. In addition, all conditions contained in the Biological Opinion, dated

August 2, 2000 and prepared by the National Marine Fisheries Service, will be incorporated into the final project design.

5. Maintenance-related impact on the steelhead trout will be mitigated to less than significance by prohibiting maintenance in flowing water between December 1st and March 31st, prohibiting maintenance in the estuary, and requiring a biologist to survey the area for steelhead prior to commencement of maintenance. In addition, all maintenance-related conditions contained in the Biological Opinion, dated August 2, 2000 and prepared by the National Marine Fisheries Service, will be incorporated into the final maintenance plan.
6. Construction-related impacts on the Tidewater Goby will be mitigated to less than significance by prohibiting construction in flowing water between December 1st and March 31st; prohibiting construction in the estuary between December 1st and May 31st, excluding gobies from half the estuary at a time and moving them to the wet side while dewatering the working area; placement of fish baffles and rocky side baffles in the estuary and expanding that portion of the estuary above Cabrillo Boulevard by 220%. In addition, all conditions contained in the Biological Opinion, dated June 1, 2001, and prepared by the United States Fish and Wildlife Service, will be incorporated into the final project design.
7. Maintenance-related impacts on the Tidewater goby will be mitigated to less than significance by prohibiting maintenance in flowing water between December 1st and March 31st and prohibiting maintenance in the estuary. In addition, all maintenance related conditions contained in the Biological Opinion, dated June 1, 2001, and prepared by the United States Fish and Wildlife Service, will be incorporated into the final maintenance plan
8. Construction and maintenance related impacts on aquatic and stream bank habitat will be mitigated to less than significance by all of the above measures outlined for construction and maintenance-related impacts on the Steelhead trout and Tidewater goby; removal of invasive weeds; installation of temporary above-ground irrigation systems on the bank; installation of native trees from local genetic stock; replacement of any native trees that die within the first five years with local genetic stock; and by preparation and implementation of a maintenance plan that will use a "mosaic" approach to removal of streambed vegetation; reconstruction of the pilot channel to follow the evolving low-flow alignment; and all measures contained in the Biological Opinions for the Steelhead trout and Tidewater goby outlined above.
9. Construction-related impacts on large native trees will be mitigated to less than significance by protecting as many of the trees as feasible during final design and by planting a minimum of 300 replacement trees of species native to riparian habitats from local genetic stock on the banks and habitat expansion zones.

10. Construction-related impacts on land use and socioeconomics will be mitigated to less than significance by purchasing affected property at fair market value and providing relocation assistance as required by state and federal law.
11. Construction-related aesthetic impacts will be partially mitigated in the short-term by planting upper banks with natural vegetation; creating habitat expansion zones with natural vegetation; planting vines on vertical walls; using concrete forms, colors and textures to enhance concrete walls; and designing bridges and fencing to fit into the neighborhood character. These impacts will be mitigated to less than significance once plantings grow five to ten years.
12. Construction-related short-term recreation impacts will be mitigated to less than significance by planting along the upper banks of the project and by creating habitat expansion zones with recreational value.
13. Construction-related hazardous, toxic and radioactive waste impacts will be mitigated to less than significance by requiring the preparation and implementation of a SWPPP, as outlined under water quality impacts above, and requiring testing of creek sediments prior to construction. Based on the tests, a plan for reducing contamination to acceptable levels shall be prepared and implemented in coordination with the Regional Water Quality Control Board and the Santa Barbara County Department of Environmental Health Services.
14. Construction-related traffic and parking impacts will be mitigated and safety impacts mitigated to less than significance by requiring a truck routing plan to be prepared and implemented which includes avoidance of impacted intersections and peak traffic hours and reduction of conflicts between trucks and other traffic through the provision of a traffic control monitor and noticing of residents and businesses. In addition, a construction parking plan will be required.
15. Construction-related cultural resource impacts will be mitigated to less than significance for all historic resources except 15 West Mason Street by avoidance or by recordation of historic resources using the Historic American Building Survey and Historic American Engineering Records (HABS/HAER) standards and by surveying the West Downtown and West Beach neighborhoods and designating appropriate landmark districts based on the outcome of such surveys. Demolition of 15 West Mason Street remains significant and unavoidable.
16. Construction-related cultural resource impacts will be mitigated to less than significance for all archaeological resources by archaeological monitoring of any potential sites and, if resources are found, stopping work in the area, determining their significance and, if significant, developing and carrying out an appropriate mitigation plan, subject to approval by the Historic Landmarks Commission and the Environmental Analyst.

G. CUMULATIVE EFFECTS

The Final EIS/EIR for the Lower Mission Creek Flood Control Project states that the project will not contribute to significant long-term cumulative impacts. Therefore, it will not be necessary to propose mitigation measures. There will be no residual cumulative impacts.

H. FINDINGS RELATED TO GROWTH INDUCING EFFECTS

Section 15126.2(d) of the CEQA Guidelines requires an EIR to discuss ways in which a project could foster economic or population growth or the construction of new housing, either directly or indirectly in the surrounding environment. The following discussion is from Section 11 of the Final EIR/EIS.

The proposed project will not have a direct impact on development potential in the affected area in terms of amount allowed by the City's General and Local Coastal Plan or zoning. However, because of the avoided costs of flood insurance and special project design, more development may occur than would be the case without the project.

Much of the area zoned for commercial and hotel-related uses is also developed to the capacity allowed by zoning when on-site parking requirements are considered, although substantial redevelopment of the sites with a limited amount of additional commercial development could occur.

Most recently approved developments along the creek have incorporated potential flood control and habitat restoration improvements into their designs in anticipation of this project.

The Project does not include the construction of new housing which could be considered a direct growth-inducing impact and would not require additional personnel or employment opportunities which would lead to an indirect growth potential. Based on this analysis the Board of Directors finds, that the proposed project would not be growth inducing.

I. FINDINGS THAT IDENTIFIED PROJECT ALTERNATIVES ARE NOT FEASIBLE

A total of twelve structural alternatives were evaluated during the Feasibility Study. These alternatives included a No Action Plan, plans with 2,500 cubic feet per second (cfs) capacity with two different channel configurations, and plans with 3,400 cfs with nine different channel configurations. Alternatives 2 and 3 would be designed to convey a flow of 2,500 cfs, providing about a 15-year level of protection, and alternatives 4 through 12 would be designed to convey a flow of 3,400 cfs, which would provide about a 20-year level of protection.

In the Draft and Final EIS/EIR, eight of the twelve Alternatives were not evaluated further for environmental analysis based on environmental benefits and the benefit/cost (b/c) ratio

The four alternatives that were carried forward for analysis in the EIR/EIS were alternatives 1, 6, 8, and 12.

- Alternative 1: No Action Plan

- Alternative 6: Conveyance Capacity of 3,400 cfs with some vertical walls and some stepped walls.
- Alternative 8: Conveyance Capacity of 3,400 cfs with an Oxbow bypass and some vertical walls.
- Alternative 12: Conveyance Capacity of 3,400 cfs with an Oxbow bypass, some vertical walls and some riprap slopes with native vegetation above vertical short walls. Alternative No. 12 is the recommended alternative and the environmentally superior alternative when compared to the other alternatives.

The specific economic, social or other considerations that make alternatives identified in the Feasibility Study and the EIS/EIR infeasible are as follows:

- Other alternatives do not meet the objectives of providing flood control improvements and environmental benefits and meeting the b/c ratio minimum of 1:1, as required by the regulation of the U.S. Army Corps of Engineers.
- The City of Santa Barbara and the District do not have the financial resources on their own to pay for flood control improvements that might be environmentally superior from the standpoint of biological resources.
- Other alternatives that would maximize biological resources would result in significant unavoidable impacts on cultural resources and loss of housing units, many of them affordable, and would not meet the b/c ratio minimum of 1:1 as required by the regulations of the U. S. Army Corps of Engineers.

J. STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIS/EIR identifies impacts to cultural resources and aesthetics, as significant environmental impacts which are considered unavoidable. Having balanced the benefit of the project against its significant and unavoidable effects, the Board of Directors hereby determines that the project's unavoidable impacts are acceptable in light of the project's benefits. Each benefit set forth below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every unavoidable impact. Pursuant to CEQA Sections 15043, 15092, and 15093, any remaining significant effects on the environment are acceptable due to these overriding considerations.

1. The Lower Mission Creek Flood Control Project will result in reduced flood hazards by removing 171 parcels from the 25-year flood plain, 183 parcels from the 50-year flood plain and 104 parcels from the 100-year floodplain. Flood hazards and potential flood damage would be reduced for all parcels remaining in these floodplain areas.

2. Parcels no longer in the 100-year floodplain as a result of the Lower Mission Creek Flood Control Project improvements would not be required to purchase annual flood insurance after the Flood Insurance Rate Map is revised to reflect the new floodplain. This would result in decreased costs to the property owners and, potentially, to any tenants.

3. The improved flood control may result in improved property values, ultimately increasing property tax revenues to the County and City of Santa Barbara.

4. Demolition of 15 West Mason Street will allow for an alignment of Mission Creek that would preserve the integrity of the 100 block of Chapala Street and the house at 20 West Mason Street. Protection of these other resources preserves a more significant part of Santa Barbara's architectural and historical integrity. The structure at 15 West Mason Street is designated as a City Structure of Merit while the structures at 20 West Mason Street and 116, 118 and 120 Chapala Street are eligible for designation as City Landmarks and for inclusion on the California Register of Historic Resources and the National Register of Historic Places. In addition, they would be contributing elements of a potential National Register District.

5. In the long-term, the Lower Mission Creek Flood Control Project is anticipated to result in improved biological resources and aesthetic appearance of the creek by:

- Restoring the major plant species of a native riparian community;
- Enhancing the habitat for steelhead in the lower creek;
- Removing and suppressing invasive non-native vegetation and replacing it with native vegetation;
- Removing man-made construction materials along the creek bottom and restoring much of the lower creek to a natural bottom; and
- Increasing the size of that portion of the estuary above Cabrillo Boulevard by 220%, which may provide increased benefits for the Tidewater goby.

6. The improved riparian habitat will also improve the appearance of the creek for the community and specifically for the adjacent property owners and tenants, potentially enhancing property values and ultimately increasing property tax revenues to the County and City of Santa Barbara.

The Board or Directors therefore finds that the remaining unavoidable significant environmental effects are acceptable.