



FEMA

April 14, 2025

Robyn Fennig
Assistant Director Hazard Mitigation
Governor’s Authorized Representative
California Offices of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Reference: Application Approval, HMGP DR-4569-468-14R
Alameda County Flood Control District
Estudillo Canal and Neptune Drive Flood Protection Project
FIPS Code: 001-UDAZ0, Supplement 51

Dear Robyn Fennig:

We approve and issue Hazard Mitigation Grant Program (HMGP) funds for the Alameda County Flood Control District, HMGP DR-4569-468-14R, Estudillo Canal and Neptune Drive Flood Protection Project.

The total project cost is \$12,041,994.00. As shown in the enclosed Obligation Report - Supplement 51, we are obligating \$9,031,495.50 for the 75 percent Federal share; the 25 percent non-Federal share is \$3,010,498.50. We are obligating \$602,099.70 for the 100% Federal share Subrecipient Management Costs. These funds are available in SmartLink for immediate and eligible disbursements. The following is a summary of the approved funding:

| Funding Type: | Federal Share: | Non-Federal Share: | Total Project Cost: |
|------------------|----------------|--------------------|---------------------|
| Supplement 51 | \$9,031,495.50 | \$3,010,498.50 | \$12,041,994.00 |
| Management Costs | \$602,099.70 | \$0.00 | \$602,099.70 |

This HMGP project approval and obligation of funds are subject to the following conditions:

- 1. Scope of Work (SOW)** – This grant will fund flood control activities to reduce flood hazards in the Marina Faire and Mulford Gardens neighborhoods. The Alameda Flood Control District will complete modifications to the Estudillo Canal, including improvements to the tide gate, and creation of a berm and floodwall along Neptune Drive. Modification of the tide gate will include the temporary installation of a sheet pile cofferdam to detain daily tides and allow for site dewatering, the demolition of the existing tide gate structure, and the reconstruction of a new concrete tide gate structure and bridge deck.

2. **Project Completion Date** – The work schedule included with the project application indicates that the project will take 36 months to complete; however, we can only approve a project up to the approved disaster period of performance (POP). Therefore, the project completion date is August 28, 2026. Please inform the sub-recipient that work completed after the disaster period of performance (POP) is not eligible for federal funding, and that federal funds may be de-obligated for work completed outside the POP when there is no approved time extension.
3. **Project Closeout** – Within 90 days of the award period of performance’s expiration, all project funds must be liquidated and final closeout documentation for the project must be submitted to FEMA. Please note the project must comply with Code of Federal Regulations Title 2, Part 200 reporting requirements at the time of closeout.
4. **Record of Environmental Consideration (REC)** – The proposed action is the preferred action under Section 2.4, Activities Involving Watercourses and Coastal Features, of the Programmatic Environmental Assessment for Recurring Actions in Arizona, California, and Nevada (PEA). No further NEPA review is required. A list of typical BMPs is attached. Addressing the BMPs appropriate for this scope of work is a condition of funding. Please reference the enclosed REC for further information.
5. **Standard Conditions** – This project approval is subject to the enclosed *Standard Mitigation Grant Program (HMGP) Conditions*, amended August 2018. Please note that federal funds may be de-obligated for work that does not comply with these conditions.

In addition to the Standard HMGP Conditions, the following special conditions must be met during the implementation of the project:

- **Source of condition: Executive Order 11988 – Floodplains**
 - The Subrecipient must coordinate with the local floodplain administrator and obtain any required permits prior to initiating work. Coordination correspondence with the Floodplain administrator, including any required permits, and implementation documentation to any permit conditions need to be forwarded to the State and FEMA for inclusion in the permanent project files. **Monitoring Required: Yes**
- **Source of condition: Executive Order 11990 – Wetlands**
 - Permitting: The Subrecipient is responsible for proper identification of wetlands. Under EO11990 - Protection of Wetlands, the Subrecipient is responsible for contacting USACE to re-authorize the Nationwide Permit for the project that expired in 2022 prior to initiating work. The Subrecipient shall comply with all conditions of the required permit. All coordination pertaining to these activities shall be documented and copies forwarded to USACE and the FEMA Hazard Mitigation Program as part of the permanent project files. **Monitoring Required: Yes**
 - Best Management Practices: The Subrecipient shall ensure that best management practices are implemented to prevent erosion and sedimentation to surrounding, nearby, or adjacent wetlands. This includes equipment storage and staging of construction to prevent erosion and sedimentation to ensure that wetlands are not

adversely impacted per the Clean Water Act and Executive Order 11990.

Monitoring Required: Yes

- **Source of condition: Executive Order 13112 – Invasive Species**
 - Fill and other imported materials must be from a certified source or otherwise known to be free of invasive species. Any fill material brought on-site should be clean, debris-free, and devoid of invasive plant parts or seeds. Do not borrow fill from weed- infested stockpiles, road shoulders or ditch lines. **Monitoring Required: Yes**
 - All erosion control materials and equipment must be free of invasive species. Use weed-free materials for erosion control and soil stabilization. When available, use weed-free straw certified by a county agriculture department, coconut fiber, rice straw and/or native grass straw. **Monitoring Required: Yes**
 - Transportation of invasive species must be considered during debris removal to reduce spread. Such removal is to follow State guidelines and be disposed at legal (properly permitted) sites. **Monitoring Required: Yes**
- **Source of condition: Clean Air Act (CAA)**
 - The Subrecipient is responsible for complying with all applicable subparts of the Clean Air Act. Copies of any permits/authorizations, or consultation documentation should be forwarded to FEMA for inclusion in the administrative record. Failure to comply with these conditions may jeopardize the receipt of federal funding. **Monitoring Required: No**
- **Source of condition: Clean Water Act (CWA)**
 - This project may impact Waters of the U.S.; the Subrecipient is required to contact the USACE to re-authorize the Nationwide Permit for the project that expired in 2022. All documentation pertaining to coordination and permitting must be attached to the Subrecipient application. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout. **Monitoring Required: Yes**
- **Source of condition: Coastal Zone Management Act**
 - Any changes to the scope of work must be resubmitted to FEMA and the BCDC prior to initiation of any work. The Subrecipient is responsible for all necessary coordination with BCDC and obtaining any necessary coastal permitting and Federal Consistency Certification if determined applicable. They are to implement any conditions associated with BCDC approval. **Monitoring Required: No**
- **Source of condition: Endangered Species Act**
 - The Subrecipient is responsible for implementing Avoidance and Minimization Measures and Conservation Measures in the attached documentation per the USFWS and the NMFS Consultation reference numbers 08FBBDT00-2018-F-0098 and WCR-2018-8767. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout. **Monitoring Required: Yes**
- **Source of condition: Magnuson-Stevens Fishery Conservation and Management Act (MSA)**
 - The Subrecipient is responsible for implementing all conditions in the attached documentation per National Marine Fisheries Service (NMFS). Failure to comply

with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout. **Monitoring Required: Yes**

Particular attention should be given to the project conditions before and during project implementation. Failure to comply with these conditions may jeopardize federal assistance, including funding. Documentation confirming compliance must be included with the delivery of final closeout request submitted to FEMA.

If you have any questions please contact Laura Jones, Grants Management Specialist, by email at laura.jones@fema.dhs.gov, or phone at (202) 531-1881.

Sincerely,

Kathryn Lipiecki
Director, Mitigation Division
FEMA Region 9

Enclosures (3):

Obligation Report - Supplement 51
Record of Environmental Consideration (REC)
Standard Mitigation Grant (HMGP) Conditions

cc: Melissa Boudrye, Resilience Branch Chief, California Governor's Office of Emergency Services
Concepcion Chavez, Technical Assistance Division Chief, California Governor's Office of Emergency Services
Ron Miller, Hazard Mitigation Assistance Branch Chief, California Governor's Office of Emergency Services
Joe Purvis, HM Grants Division Chief, California Governor's Office of Emergency Services
Ryan Massello, HM Quality Assurance Division Chief, California Governor's Office of Emergency Services
Robert McCord, Chief, Hazard Mitigation Assistance Branch, FEMA Region 9

FEDERAL EMERGENCY MANAGEMENT AGENCY
HAZARD MITIGATION GRANT PROGRAM

Obligation

| Disaster No | FEMA Project No | Amendment No | State Application ID | Action No | Supplemental No | State | Recipient |
|-------------|-----------------|--------------|----------------------|-----------|-----------------|-------|-----------|
| 4569 | 14 -R | 0 | 468 | 1 | 51 | CA | Statewide |

Subrecipient: ALAMEDA CNTY FLOOD CONTROL DISTRICT ; Project Title : Estudillo Canal and Neptune Drive Flood Protection Project
Subrecipient FIPS Code: 001-UDAZ0

| Total Amount Previously Allocated | Total Amount Previously Obligated | Total Amount Pending Obligation | Total Amount Available for New Obligation | | |
|-----------------------------------|-----------------------------------|---------------------------------|---|--|--|
| \$9,031,495.50 | \$9,031,495.50 | \$0.00 | \$0.00 | | |

| Project Amount | Subrecipient Management Cost Amount | Total Obligation | IFMIS Date | IFMIS Status | FY |
|----------------|-------------------------------------|------------------|------------|--------------|------|
| \$9,031,495.50 | \$602,099.70 | \$9,633,595.20 | 04/03/2025 | Accept | 2025 |

Comments

Date: 04/03/2025 User Id: RHIRST

Comment: Obligate \$ 9,031,495.50 Federal Share and SRMC \$ 602,099.70, totaling \$ 9,633,595.20 for approved HMGP DR-4569-468-14- Estu Canal and Neptune Drive Flood Protection Project

Authorization

Preparer Name: REILLY HIRST

Preparation Date: 04/03/2025

HMO Authorization Name: LAURA JONES

HMO Authorization Date: 04/03/2025

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

NEPA DETERMINATION

| | | |
|--|----------------------------------|----------------------------------|
| Non Compliant Flag: No | EA Draft Date: 10/21/2014 | EA Final Date: 03/01/2019 |
| EA Public Notice Date: 03/01/2019 | EA Fonsi 03/08/2019 | Level: EA |
| EIS Notice of Intent | EIS ROD Date: | |

Comment The Alameda County Flood Control and Water Conservation District proposes several different actions and upgrades to mitigate flood risk in the City of San Leandro, California. The two main components of the project are modifications to the Estudillo Canal, including improvements to the tidegate and the lowering of a portion of the canal, and the creation of a berm and floodwall along Neptune Drive. The first two project components are centered on two sections of Estudillo Canal (37.691122, -122.182004 and 37.690864, -122.169339) that span 3,440 and 32,627 square feet respectively. Improvements to the canal would include expanding the capacity of the existing tidegate to allow for greater discharge flows, lowering a section of the southern canal bank to allow for temporary water storage in existing holding basins ("retention ponds"), and salt marsh modifications. Modification of the tidegate would include the temporary installation of a sheet pile cofferdam (with bypasses for nuisance flow and utilities) to detain daily tides and allow for site dewatering, the demolition of the existing tidegate structure, and the reconstruction of a new concrete tidegate structure and bridge deck. Existing rock slope protection would be salvaged and reused, along with the import of additional rock rip rap. The second canal modification objective involves lowering a 190-foot section of the southern canal bank from 12 feet (North American Vertical Datum of 1988-NAVD 88) to 8 feet (NAVD 88). This would direct floodwaters to existing open sediment handling basins for temporary off-line detention and would be carried out in the first construction season. Dewatering would occur to allow for dry construction, and a 3-foot-deep concrete cutoff wall and a concrete block mat would be installed to prevent scouring and erosion of the lowered segment. Reinforced concrete pipes would also be installed under the west end of the lowered segment to allow overflows from the canal to drain out of the basin within the 24-hour limit. A 13-foot-wide concrete path would be established to provide year-round vehicular access for maintenance. Salt marsh modifications in the vicinity of the canal would include restoration work such as earthwork, erosion control fabric, hydroseeding, plant establishment, and biological monitoring. Project activities related to the Estudillo Canal would involve significant ground disturbance. The tide gate and southern embankment would require 8,858 and 34,850 square feet of disturbance, respectively, both from a depth of 1-14 feet. Piles would be driven up to 42-foot depths. A biologist approved by U.S. Fish and Wildlife Service (USFWS) would conduct pre-work surveys for the California clapper rail and salt marsh harvest mouse and provide training to workers.

The third project area is along Neptune Drive (37.701169, -122.189727), a street directly adjacent to the San Francisco Bay. Shoreline flood protection components would include the construction of a berm and floodwall and would involve the import of fill material; excavation and removal of existing earthen fill and concrete riprap; placement of engineered fill at a 14.2-foot elevation; construction of a 70-foot-long, 5-foot-tall concrete floodwall extending from the southern flank of the enhanced levee; and placement of rock slope protection on the bayside levee above 11 feet and the high tide line.

Mitigation measures would include temporary silt fences, fiber rolls, portable concrete washout, saline-alkali hydroseed bench plantings, and upland hydroseed slope plantings to reduce erosion and runoff during and after construction; articulated concrete block mats; additional hydroseeding of all disturbed soils; conformance with the Mitigation Monitoring Plan for Infrastructure Improvement along the Estudillo Canal (developed by the Subrecipient in 2019 to compensate for potential impacts to jurisdictional waters); biological monitoring for present species; and other best management practices (BMPs) such as compaction and soil fences to safeguard against materials erosion and to ensure that materials remain in place for sedimentation. In addition, lawful removal and disposal of all litter or construction debris (debris, rubbish, soil, silt, sand, cement, concrete) within the riparian stream zone would be picked up daily and properly disposed of at an appropriate site.

The proposed action is the preferred action under Section 2.4, Activities Involving Watercourses and Coastal Features, of the Programmatic Environmental Assessment for Recurring Actions in Arizona, California, and Nevada (PEA). No further NEPA review is required. A list of typical BMPs is attached. Addressing the BMPs appropriate for this scope of work is a condition of funding. See attached and condition. - jgladsto - 12/03/2024 22:02:11 GMT

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

EXTRAORDINARY

| Extraordinary Circumstance Code | Description | Selected ? |
|---------------------------------|--|------------|
| | No Extraordinary Circumstances were selected | |

ENVIRONMENTAL LAW / EXECUTIVE ORDER

| Environmental Law/ Executive Order | Status | Description | Comment |
|--------------------------------------|-----------|--|---|
| Clean Air Act (CAA) | Completed | Project is located in a non-attainment area | The project is in Alameda County and is within a nonattainment area for PM 2.5 (2006) and 8-hour ozone (2008 and 2015), and partial nonattainment for carbon monoxide (1972) according to the U.S. Environmental Protection Agency (USEPA). Based on the scope of work, the potential emissions from project activities are clearly below the de minimis thresholds for the General Conformity Rule. Thus, the project is exempt from a conformity determination. See Condition. - jgladsto - 12/03/2024 21:41:47 GMT |
| | Completed | Coordination required with applicable state administering agency - Review concluded | |
| Coastal Barrier Resources Act (CBRA) | Completed | Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded | |
| Clean Water Act (CWA) | Completed | Project would affect waters, including wetlands, of the U.S. | The scope of work associated with this project has the potential to affect waters of the U.S. This project may require Section 404/401 Clean Water Act (CWA) or Section 9/10 (Rivers and Harbors Act) Permit(s), including qualification under Nationwide Permits. The Subrecipient is required to contact USACE to re-authorize the Nationwide Permit for the project that expired in 2022. See Condition. - jgladsto - 12/03/2024 21:33:26 GMT |
| | Completed | Project may require Section 404/401 or Section 9/10 (Rivers and Harbors Act) permit, including qualification under Nationwide Permits - Review concluded | |
| Coastal Zone Management Act (CZMA) | Completed | Project is located in a coastal zone area and/or affects the coastal zone | The San Francisco Bay Conservation and Development Commission (BCDC) has determined that the project will not have a reasonably foreseeable effect on a coastal environmental quality or affect any land or water or natural resources of the coastal zone and a Federal Consistency Certification is not required. See attached. - jgladsto - 12/03/2024 21:34:36 GMT |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

| Environmental Law/ Executive Order | Status | Description | Comment |
|---|-----------|--|--|
| | Completed | State administering agency does not require consistency review - Review concluded | |
| Executive Order 11988 - Floodplains | Completed | Located in floodplain or effects on floodplain/flood levels | Per Flood Insurance Rate Map (FIRM) panels 06001C0258H and 06001C0254H, both dated December 21, 2018, the project sites overlap with the following zones/areas: minimal flood hazard, 0.2 percent annual chance flood hazard; 1 percent annual chance flood with average depth less than 1 foot or with drainage areas of less than 1 square meter, and Special Hazard Flood Areas with a depth of 10 feet. The proposed action is not likely to result in any potential direct impacts that will adversely affect the natural values and function of floodplains, nor is it likely to increase the risk of flood loss. Per HMA FFRMS partial implementation policy (August 26, 2021), this project is subject to the FFRMS Freeboard Value Approach (FVA) and structure(s) must be protected to 2 feet of freeboard above the Base Flood Elevation. The Initial Disaster Public Notice was published on May 15, 2023. Per 44 CFR 9.5(d)(4), the 8-step Process was completed, and the determination was the project is the only practicable alternative. Floodplain Management 8-Step Checklist is attached. See Conditions. See attached map. - jgladsto - 12/03/2024 21:48:35 GMT |
| | Completed | Possible adverse effects associated with investment in floodplain, occupancy or modification of floodplain environment | |
| | Completed | 8 Step Process Complete - documentation attached - Review concluded | |
| Executive Order 11990 - Wetlands | Completed | Located in wetlands or effects on wetlands | The project may affect wetlands. See attached. See Conditions. - jgladsto - 12/03/2024 21:53:23 GMT |
| | Completed | Possible adverse effect associated with constructing in or near wetland | |
| | Completed | 8 Step Process Complete - documentation attached - Review concluded | |
| Executive Order 12898 - Environmental Justice for Low Income and Minority Populations | Completed | Low income or minority population in or near project area | Minority or low-income populations were identified through program coordination and public involvement, state EJ community lists or maps, or EJSCREEN reports for the area around the two project |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

| Environmental Law/ Executive Order | Status | Description | Comment |
|---|-----------|--|--|
| | | | sites. Review of the project scope of work revealed no adverse effects on these populations. Therefore, no additional review for potential EJ concerns is required. - jgladsto - 12/03/2024 21:57:07 GMT |
| | Completed | No disproportionately high and adverse impact on low income or minority population - Review concluded | |
| Executive Order 13112 - Invasive Species | Completed | Review concluded | |
| Endangered Species Act (ESA) | Completed | Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action | Formal Consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act was concluded on December 21, 2018. It was determined the proposed actions May Affect and are Likely to Adversely Affect federally listed species and/or designated critical habitat. The USFWS has prepared a Biological Opinion and provided Avoidance and Minimization Measures. See attached. See Condition. Informal consultation with the National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act was concluded on May 7, 2018. Per the Letter of Concurrence, the proposed action May Affect but is Not Likely to Adversely Affect Federally Listed Species and/or designated Critical Habitat. See attached. See Condition. As these consultations were completed in 2018, no new actions were needed for this project, and No Effect Memos were prepared. See attached. - jgladsto - 12/03/2024 21:26:08 GMT |
| | Completed | Likely to adversely affect species or designated critical habitat | |
| | Completed | Formal consultation concluded. (Biological Assessment and Biological Opinion attached) - Review concluded | |
| Farmland Protection Policy Act (FPPA) | Completed | Project does not affect designated prime or unique farmland - Review concluded | |
| Fish and Wildlife Coordination Act (FWCA) | Completed | Project does not affect, control, or modify a waterway/body of water - Review concluded | |
| Migratory Bird Treaty Act (MBTA) | Completed | Project located within a flyway zone | |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

| Environmental Law/ Executive Order | Status | Description | Comment |
|--|-----------|---|--|
| | Completed | Project does not have potential to take migratory birds - Review concluded | |
| Magnuson-Stevens Fishery Conservation and Management Act (MSA) | Completed | Project located in or near Essential Fish Habitat | Per consultation with National Marine Fisheries (NMFS); recommendations were provided. See attached. See Condition. - jgladsto - 12/03/2024 21:43:20 GMT |
| | Completed | Project adversely affects Essential Fish Habitat (FEMA determination/USFWS/NMFS concurrence attached) | |
| | Completed | NOAA Fisheries provided no recommendation(s) - Review concluded | |
| National Historic Preservation Act (NHPA) | Completed | Applicable executed Programmatic Agreement (enter date in comments). | Consultation with the appropriate tribes was conducted per 36 CFR 800.2(c)(2)(ii) and 36 CFR 800.2(c)(5). Consultation, which was concluded on August 22, 2023, indicated that the Amah Mutsun Tribal Band of Mission San Juan Bautista (Amah Mutsun) had concerns with the proposed project. Other Tribes did not provide comments within 30 days or declined to comment. The Amah Mutsun recommended that all field personnel received Cultural Sensitivity Training, and that a Qualified Archaeologist trained in California archaeology and a Native American monitor from the Amah Mutsun be present during project ground disturbing activities. See attached. See Condition.FEMA consulted with the State Historic Preservation Officer (SHPO) on April 18, 2024, and made a finding of no historic properties affected in accordance with Stipulation II.C of the Programmatic Agreement among the Federal Emergency Management Agency (FEMA), the California State Historic Preservation Officer (SHPO), and the California Governor's Office of Emergency Services (CalOES), signed October 29, 2019. SHPO had no objection to FEMA's finding by letter dated May 20, 2024. See attached. See Condition. - jgladsto - 12/03/2024 21:21:21 GMT |
| | Completed | No properties in the project area are 50 years or older or listed on the National Register - Review concluded | |
| | Completed | Project affects undisturbed ground | |
| | Completed | Project area has potential for presence of archeological resources | |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

| Environmental Law/ Executive Order | Status | Description | Comment |
|---|-----------|---|---|
| | Completed | Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded | |
| Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) | Completed | Review concluded | See Condition. - jgladsto - 12/03/2024 21:46:47 GMT |
| Wild and Scenic Rivers Act (WSR) | Completed | Project is not along and does not affect Wild and Scenic River - Review concluded | |

CONDITIONS

Special Conditions required on implementation of Projects:

EO 11988: The Subrecipient must coordinate with the local floodplain administrator and obtain any required permits prior to initiating work. Coordination correspondence with the Floodplain administrator, including any required permits, and implementation documentation to any permit conditions need to be forwarded to the State and FEMA for inclusion in the permanent project files.

Source of condition: Executive Order 11988 - Floodplains

Monitoring Required: Yes

EO11990 - Permitting: The Subrecipient is responsible for proper identification of wetlands. Under EO11990 - Protection of Wetlands, the Subrecipient is responsible for contacting USACE to re-authorize the Nationwide Permit for the project that expired in 2022 prior to initiating work. The Subrecipient shall comply with all conditions of the required permit. All coordination pertaining to these activities shall be documented and copies forwarded to USACE and the FEMA Hazard Mitigation Program as part of the permanent project files.

Source of condition: Executive Order 11990 - Wetlands

Monitoring Required: Yes

EO11990 - Best Management Practices: The Subrecipient shall ensure that best management practices are implemented to prevent erosion and sedimentation to surrounding, nearby, or adjacent wetlands. This includes equipment storage and staging of construction to prevent erosion and sedimentation to ensure that wetlands are not adversely impacted per the Clean Water Act and Executive Order 11990.

Source of condition: Executive Order 11990 - Wetlands

Monitoring Required: Yes

EO13112: Fill and other imported materials must be from a certified source or otherwise known to be free of invasive species. Any fill material brought on-site should be clean, debris-free, and devoid of invasive plant parts or seeds. Do not borrow fill from weed- infested stockpiles, road shoulders or ditch lines.

Source of condition: Executive Order 13112 - Invasive Species

Monitoring Required: Yes

EO13112: All erosion control materials and equipment must be free of invasive species. Use weed-free materials for erosion control and soil stabilization. When available, use weed-free straw certified by a county agriculture department, coconut fiber, rice straw and/or native grass straw.

Source of condition: Executive Order 13112 - Invasive Species

Monitoring Required: Yes

EO13112: Transportation of invasive species must be considered during debris removal to reduce spread. Such removal is to follow State guidelines and be disposed at legal (properly permitted) sites.

Source of condition: Executive Order 13112 - Invasive Species

Monitoring Required: Yes

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

CAA: The Subrecipient is responsible for complying with all applicable subparts of the Clean Air Act. Copies of any permits/authorizations, or consultation documentation should be forwarded to FEMA for inclusion in the administrative record. Failure to comply with these conditions may jeopardize the receipt of federal funding.

Source of condition: Clean Air Act (CAA)

Monitoring Required: No

CWA: This project may impact Waters of the U.S.; the Subrecipient is required to contact the USACE to re-authorize the Nationwide Permit for the project that expired in 2022. All documentation pertaining to coordination and permitting must be attached to the Subrecipient application. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout.

Source of condition: Clean Water Act (CWA)

Monitoring Required: Yes

CZMA: Any changes to the scope of work must be resubmitted to FEMA and the BCDC prior to initiation of any work. The Subrecipient is responsible for all necessary coordination with BCDC and obtaining any necessary coastal permitting and Federal Consistency Certification if determined applicable. They are to implement any conditions associated with BCDC approval.

Source of condition: Coastal Zone Management Act (CZMA)

Monitoring Required: No

ESA: The Subrecipient is responsible for implementing Avoidance and Minimization Measures and Conservation Measures in the attached documentation per the USFWS and the NMFS Consultation reference numbers 08FBDT00-2018-F-0098 and WCR-2018-8767. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout.

Source of condition: Endangered Species Act (ESA)

Monitoring Required: Yes

MSA: The Subrecipient is responsible for implementing all conditions in the attached documentation per National Marine Fisheries Service (NMFS). Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout.

Source of condition: Magnuson-Stevens Fishery Conservation and Management Act (MSA)

Monitoring Required: Yes

NHPA: The Subrecipient is responsible for implementing all conditions described in consultation letters between FEMA and the Amah Mutsun Tribal Band of Mission San Juan Bautista, specifically the requirement that field personnel receive Cultural Sensitivity Training prior to initiating project ground disturbing activities, and that a Qualified Archaeologist trained in California archaeology and a Native American monitor from the Amah Mutsun be present during project ground disturbing activities. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required: Yes

RCRA: In the event that petroleum products, hazardous materials or toxic waste, or equipment, debris or materials contaminated with these products, are discovered during implementation of the project, documentation will be provided to the State and FEMA, showing that all materials and items were handled, managed, transported and disposed in accordance with the requirements and to the satisfaction of the governing Local, State and Federal agencies. In addition, if groundwater is encountered during excavation, it would be filtered and treated with the use of baker tanks and tested prior to discharge downstream. Any contaminated groundwater would be taken care of by baker tanks.

Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)

Monitoring Required: Yes

NEPA: The Subrecipient is responsible for implementing best management practices (BMPs) appropriate for this scope of work. A list of Typical Best Management Practices is attached. Any changes to this scope of work must be resubmitted to FEMA for review prior to initiation of any work. Noncompliance with these requirements may jeopardize federal funding.

Source of condition: NEPA Determination

Monitoring Required: Yes

Standard Conditions:

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4569-0014-CA (4569-468-014) (1)

Title: Estudillo Canal and Neptune Drive Flood Protection Project

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

Standard Mitigation Grant Program (HMGP) Conditions

FEMA Region IX, August, 2018

The following list applies to Recipients and Subrecipients accepting HMGP funds from the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security (DHS):

1. **Applicable Federal, State, and Local Laws and Regulations.** The Recipient/Subrecipient must comply with all applicable Federal, State, and Local laws and regulations, regardless of whether they are on this list or other project documents. DHS financial assistance Recipients and Subrecipients are required to follow the provisions of the State HMGP Administrative Plan, applicable Hazard Mitigation Assistance Uniform Guidance, and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located in Title 2 of the Code of Federal Regulations (CFR) Part 200, adopted by DHS in 2 CFR 3002.
2. **Financial Management Systems.** The Recipient and Subrecipient must maintain financial management systems to account for and track funds, as referenced in 2 CFR 200.302.
3. **Match or Cost Share.** Non-federal match or cost share must comply with 2 CFR 200.306, the scope of work (SOW), and any agreements among the Subrecipient, the Recipient, and FEMA.
4. **Budget Changes.** Unanticipated adjustments are permitted within the approved total cost. However, if costs exceed the federal share, the Subrecipient must notify the Governor's Authorized Representative (GAR) of overruns before implementation. The GAR shall submit a written request for approval to FEMA Region IX. The subaward must continue to meet HMGP requirements, including cost effectiveness and cost share. Refer to 2 CFR 200.308 for additional information.
5. **Real Property and Land.** The acquisition, use, and disposition must comply with 2 CFR 200.311.
6. **Equipment.** The acquisition, use, and disposition must comply with 2 CFR 200.313.
7. **Supplies.** Upon project completion, FEMA must be compensated for unused supplies, exceeding \$5,000 (fair market value), and not needed for other federal programs. Refer to 2 CFR 200.314.
8. **Procurement.** Procurement procedures must be in conformance with 2 CFR 200.318-320.
9. **Monitoring and Reporting Program Performance.** The Recipient and Subrecipient must submit quarterly progress reports, as referenced in the 2 CFR 200.328 and State HMGP Administrative Plan.
10. **Records Retention.** In accordance with 2 CFR 200.333, financial/ programmatic records related to expenditures must be maintained at least 3 years after the date of Recipient's final expenditure report.
11. **Enforcement and Termination.** If the Recipient or Subrecipient fails to comply with the award or subaward terms, whether stated in a Federal statute or regulation, the State HMGP Administrative Plan, subapplication, a notice of award, an assurance, or elsewhere, FEMA may take one or more of the actions outlined in 2 CFR 200.338, including termination or partial termination of the award or subaward outlined in 2 CFR 200.339.
12. **Allowable Costs.** Funds are to be used for allowable costs in compliance with 2 CFR 200.403, the approved SOW, and any agreements among the Subrecipient, Recipient, and FEMA.

13. **Non-Federal Audit.** The Recipient and Subrecipient are responsible for obtaining audits in accordance with the Single Audit Act of 1984, in compliance with 2 CFR 200.501.
14. **Debarred and Suspended Parties.** Recipients and Subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 CFR 180. These regulations restrict federal financial assistance awards, subawards, and contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in the federal assistance programs or activities.
15. **Equipment Rates.** Rates claimed for use of Subrecipient-owned equipment in excess of the FEMA-approved rates must be approved under State guidelines issued by the State Comptroller's Office or must be certified by the Recipient to include only those costs attributable to equipment usage less any fixed overhead and/or profit.
16. **Duplication of Funding between Public Assistance (PA) and HMGP.** Funding for PA Section 406 and HMGP Section 404 are permitted on the same facility/location, but the activities identified under each program must be distinct with separately accounted funds. At closeout, FEMA may adjust the funding to ensure the Subrecipient was reimbursed for eligible work from only one funding source.
17. **Historic Properties and Cultural Resources.** In compliance with 2 CFR 800, if a potential historic property or cultural resource is discovered during construction, the Subrecipient must cease work in the area and take all reasonable measures to avoid or minimize harm to the discovered property/resource. During construction, the Subrecipient will monitor ground disturbance activity, and if any potential archeological resources are discovered, will immediately cease work in that area, and notify the Recipient and FEMA. Construction in the area may resume with FEMA's written approval after FEMA's consultation, if applicable, with the State Historic Preservation Officer (SHPO).
18. **NEPA and Changes to the Scope of Work (SOW).** To comply with the National Environmental Policy Act (NEPA), and other Laws and Executive Orders, any change to the approved SOW shall be re-evaluated before implementation. Construction associated with a SOW change, prior to FEMA approval, may be ineligible for funding. Acceptance of federal funding requires environmental permits and clearances in compliance with all appropriate federal, state and local laws, and failure to comply may jeopardize funding.

Within their authority, the Recipient and Subrecipient must use of all practicable means, consistent with other essential policies, to create and maintain productive harmony for people and nature, and fulfill the social, economic, and other needs of present and future generations of Americans.