

**STATEMENT OF OVERRIDING CONSIDERATIONS FOR POTENTIAL
SIGNIFICANT NOISE IMPACTS FOR THE LAKE MERRITT CHANNEL
WIDENING PROJECT**

These findings are incorporated by reference into the December 4, 2008 staff recommendation prepared for approval of the Lake Merritt Water Quality and Habitat Improvements (“the Project”) by the State Coastal Conservancy (the “Conservancy”). These findings are based upon substantial evidence in the entire administrative record and in reliance upon the “Environmental Impact Report for the Measure DD Implementation Project” (“2008 EIR”) adopted by the City of Oakland (the “City”) on February 13, 2008 pursuant to the California Environmental Quality Act (“CEQA”),

With respect to the portions of the Measure DD projects to be funded by the Conservancy, the 2008 EIR identified potential “significant and unavoidable” short term noise impacts that, notwithstanding the imposition of mitigation measures, would result from pile drives during construction exceeding the City’s construction noise standard. However, the Conservancy finds, as a responsible agency, that specific long term recreational, environmental, and other considerations and benefits of the Project separately and independently outweigh and render acceptable these unavoidable, adverse and short-term adverse noise impacts (CEQA Guidelines Section 15092(b)(2)(B)). These long term benefits are as follows:

1. The Project will implement and fulfill the Oakland Trust for Clean Water, Safe Parks bond measure (Measure DD), approved by the Oakland voters on November 2002. Measure DD authorized funding for physical improvements for clean water measures and implementation of waterway protection and restoration activities including the widening of the Lake Merritt channel. The Project will also implement, in part, a host of adopted City Plan, Policies and Ordinances including, but not limited to, the City of Oakland’s Open Space, Conservation and Recreation General Plan Element, the Estuary Policy Plan, and the Oakland Creek Protection Preservation Ordinance
2. The Project will implement the Conservancy’s Strategic Plan goals and objectives, including Goal 10, Objectives C and F by creating one acre of tidal marsh and one acre of upland habitat along the Lake Merritt channel, and Goal 11, Objective L by designing the pedestrian bridge to be ADA compliant.
3. The Project is listed as a “high priority project” under the interagency agreement with the Wildlife Conservation Board, the funding for which the Conservancy’s contribution for this Project is expected to come. This priority is assigned because it will implement the restoration goals of the *San Francisco Baylands Ecosystem Habitat Goals Report*, which recommends enhancement of the value of Lake Merritt and channel by improving tidal action and restoring tidal marsh, especially along the channel that connect the Lake to the estuary.

Exhibit 9: Conservancy Statement of Overriding Considerations

4. The Project will provide substantial recreational, park and open space along the Lake Merritt channel. The channel widening will result in a connection to the Bay to benefit kayakers and other small non-motorized boat operators who will be able to travel between the Oakland Estuary and Lake Merritt.
5. The Project will provide substantial environmental benefits. The Project's channel widening will remove constrictions to add to the volume of water exchanged between the Lake and Estuary resulting in increased oxygen levels and greater mixing of frequently stratified saltwater and freshwater, will increase the tidal range at the Lake creating new and healthier intertidal habitats, and improve water quality to likely increase the numbers and diversity of birds utilizing the Project's newly developed tidal marsh, mudflats and upland habitat.
6. The Project will provide substantial aesthetic benefits through landscaping design and restoration of habitat.
7. The Project will create economic opportunities and associated social benefits by providing new and attractive recreational opportunities through the construction of a pedestrian bridge, and open space through the creation of new intertidal habitat.