

COASTAL CONSERVANCY

Staff Recommendation
October 18, 2012

**MIRAFLORES PROJECT: BAXTER CREEK DAYLIGHTING, RESTORATION AND
PUBLIC ACCESS GREENBELT**

File No. 12-045-01
Project Manager: Anna Schneider

RECOMMENDED ACTION: Authorization to disburse up to \$500,000 to the City of Richmond to implement a creek daylighting, restoration and public access greenbelt project at Baxter Creek within the Miraflores Green Housing Project in Contra Costa County.

LOCATION: Baxter Creek, Richmond, Contra Costa County (Exhibit 1).

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

- Exhibit 1: [Project Location Map](#)
 - Exhibit 2: [Project Site Map](#)
 - Exhibit 3: [Restoration Design Plan](#)
 - Exhibit 4A: [Final Environmental Impact Report \(EIR\)](#)
 - Exhibit 4B: [EIR Appendices](#)
 - Exhibit 5: [Project Letters](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed five hundred thousand dollars (\$500,000) to the City of Richmond (City) to implement the Miraflores Project: Baxter Creek Daylighting, Restoration and Public Access Greenbelt (the Project), subject to the following conditions:

1. The Project shall not commence and no Conservancy funds shall be disbursed for the project until the Executive Officer of the Conservancy has reviewed and approved in writing:
 - a. A project work program, budget, and schedule.

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- b. A sign plan that acknowledges funding from the Conservancy and the City.
 - c. Documentation that the City has obtained all permits and approvals required for the Project under federal, state, and local law.
 - d. With respect to contamination on the Project site, the California Department of Toxic Substances Control or other appropriate lead agency for site remediation shall have indicated in writing, through a “closure letter” or similar documentation, that the property has been remediated to standards appropriate for the intended use of the site.
2. The City shall carry out the project in compliance with and shall incorporate all mitigation measures required by the “Miraflores Housing Development Final Environmental Impact Report,” certified by the City of Richmond on December 15, 2009, and amended via an addendum approved by the City on July 19, 2011 (together, the EIR), attached as Exhibit 4 to the accompanying staff recommendation.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed Project is consistent with Chapter 4.5 of Division 21 of the Public Resources Code, regarding the resource goals of the San Francisco Bay Area Conservancy Program.
2. The proposed Project is consistent with the Project Selection Criteria and Guidelines adopted on November 10, 2011.
3. The Conservancy has independently reviewed and considered the information contained in the EIR adopted by the City on December 15, 2009 (Exhibit 4, attached to the accompanying staff recommendation), and finds that, with one exception treated immediately below, there is no substantial evidence that the proposed Project, with the identified measures to avoid, reduce or mitigate possible significant environmental effects, will have a significant effect on the environment.
4. The Project will have one significant and unavoidable adverse effect on resources: while development of the Project will include the rehabilitation and reuse of up to three historic structures and the development of an interpretive display concerning the cultural and historical significance of the site, other historic facilities will be demolished. Nevertheless, the Conservancy finds (as discussed in the EIR and in the accompanying staff recommendation) that the beneficial effects of the Project, namely that the Project overall would result in significant long-term beneficial environmental, aesthetic, and recreational benefits including restoring native habitat, providing open space, restoring creek and watershed function, and improving community accessibility, at the same time as preserving some of the historic facilities and providing associated interpretation of the cultural resources of the site, and that these benefits would outweigh the unavoidable adverse impact on cultural resources. Further, mitigation is infeasible because there is no feasible way to lessen or avoid the effect on cultural resources at the same time as achieving the other specific environmental and other benefits of the Project.”

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PROJECT SUMMARY:

Staff recommends authorization to disburse up to \$500,000 in Conservancy funds to the City of Richmond (City) to implement the Miraflores Project: Baxter Creek Daylighting, Restoration and Public Access Greenbelt (the Project), in the City of Richmond, Contra Costa County. Conservancy funding will enable the City to implement a 4.0 acre greenbelt which includes the daylighting and restoration of a 750-foot stretch of Baxter Creek, a new creek connection to the City storm drain system, and installation of a pedestrian bridge over Baxter Creek. Doing so will enhance a greenbelt feature that is an important component of the greater Miraflores Housing Development project that will provide multiple benefits, including: an unprecedented opportunity to restore over 750 linear feet of Baxter Creek; restored floodplain, canopy, and urban agriculture; learning and ecological exploration opportunities; pedestrian and bicycle-friendly transit; and recreation, community space, and water quality improvements. The restoration of Baxter Creek and the implementation of the greenbelt project are viewed as a key catalyst in the reuse of the Miraflores site and have the potential to be a regional example of an environmentally sensitive, high quality multi-use open space.

For several decades Baxter Creek has been buried in a culvert that flows through the site with a small 70-foot open reach that is extremely degraded. The proposed project would daylight 750 feet of Baxter Creek and would re-establish natural meanders and native riparian vegetation. The restored creek channel would have adequate width to move within a wider vegetated floodplain throughout most of the creek corridor. The restored creek is an opportunity to focus community environmental organizing and will be maintained in part with support of local community groups such as Groundwork Richmond and Friends of the Richmond Greenway. The project will also install a new creek connection to the City storm drain system, not only improving flood protection but also significantly increasing the length of restored channel.

Another key design driver is to provide public access to the project area. Conservancy funding would be used to install a pedestrian bridge over the restored Baxter Creek, to improve visitors' ability to cross the site. In addition, the greenbelt will feature a bicycle and pedestrian path linked to the San Francisco Bay Trail and other active and passive recreational uses. A multi-use Class I Bikeway will follow the creek corridor and connect to a network of foot paths traversing the creek and floodplain. The Bikeway will also connect the south and north greenbelt areas and continue north to the Richmond Greenway with connections to the Ohlone Greenway and Del Norte BART station, allowing residents and visitors walking and bicycle access to a multimodal transit hub.

Finally, the north half of the greenbelt will contain a community orchard, the restored historic Oishi family house and up to two restored historic greenhouses (see "Site Description", below) as well as interpretive features and exhibits. A portion of the greenbelt will be designated for urban agriculture and community gardens and will provide a productive, self-sustaining landscape that encourages production of healthy food and honors the site's history.

The City has been involved with the Miraflores Housing Development project, of which the proposed Project is a part, for many years and is the lead agency for the environmental analysis of the overall project under the California Environmental Quality Act (CEQA). The City's collaborative relationship with the Richmond community has enabled it to ensure the project will

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provide for responsible redevelopment of the site in line with community needs and aspirations. The City has collaborated with the Conservancy on numerous similar creek restoration and public access projects (see “Project History” section below).

Site Description: The Miraflores Project is located in the City of Richmond, in Contra Costa County on the east side of Interstate 80. The site is now owned by the City of Richmond and is slated for the development of the Miraflores Sustainable Housing Development, planned as a Gold LEED –ND designated community of 336 housing units and adjacent greenbelt. Four acres of the development project site will be dedicated to the greenbelt to serve as a buffer for Interstate 80, which is located immediately adjacent. The greenbelt will include the daylighted creek and restored floodplain, a Class-I bikeway, an orchard and stewarded cultural resources. The project site is also downstream from several other Baxter Creek restoration projects including the Ohlone Gap Closure project (recipient of a 2012 Urban Greening Grant), the Baxter Creek Gateway project in the City of El Cerrito (completed in 2006), and the Poinsett Park Daylighting (completed in 1999). Downstream of the project site, Baxter Creek was restored in Booker T. Anderson Park in 2004.

The Project area has been subject to a number of historic land uses and resulting impacts and the Miraflores project site was once the location for the historic Sakai, Oishi, and Endo flower nurseries. Owned by Japanese families and maintained even through their internment in WWII, the nurseries grew roses, carnations, and other flowers for more than 60 years. The greenbelt will incorporate several preserved historic structures from these former Japanese-American flower nurseries, including greenhouses. The City of Richmond has consulted with a wide range of historic preservation interest groups in order to preserve the historical value of the site.

Another historic legacy is soil contamination due to former use of pesticides, lead and petroleum-related products. The greater Miraflores Housing project includes cleanup and remediation overseen by the California Department of Toxic Substances Control (DTSC) to allow its reuse with housing, recreational and agricultural purposes. The site has recently undergone comprehensive remediation in preparation for this project and has the active participation of the Miraflores Residents' Advisory Committee.

Baxter Creek originates in underground springs beneath El Cerrito’s Mira Vista Golf Course and flows down from the hills to the San Francisco Bay. The creek emerges on the Miraflores property from an existing box culvert under I-80 and then enters a stormwater drainpipe. As shown on the Creek Restoration site plan (Exhibit 3) the creek will be daylighted for approximately 750 feet in a vegetated creek channel in the southeast section of the greenbelt and will continue to the southern boundary of the site.

Project History: The Richmond Community Redevelopment Agency purchased the 14-acre Miraflores site using bond and tax increment financing in 2006 for \$7.6 million. This was in keeping with the City of Richmond’s General Plan seeking to “protect and preserve natural resources to nurture environmental and human health...[by working] with local and regional regulating bodies to protect water quality in creeks and bays, and to reduce or mitigate air, water and soil pollution and contamination,” as well as to preserve “open space areas along the shoreline, creeks, and in the hills to protect natural habitat.” It also sits immediately adjacent to a Priority Development Area (PDA) identified by ABAG to provide regionally-important infill development. The greenbelt thus developed as an important open space asset, serving not only the residents of the greater Miraflores project, but also the adjacent PDA.

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In 2009 the Miraflores Project was awarded a \$1.6 million Urban Greening grant from the State Natural Resources Agency. Although this award is significant, it is only sufficient to construct the initial phase of the Project. Conservancy funding of \$500,000 can ensure the Project has the funding necessary to succeed.

The Conservancy has previously supported numerous projects with the City of Richmond as well as other restoration projects along Baxter Creek. This project continues efforts initiated in 1995 by the Cities of El Cerrito, Berkeley, and Richmond; the East Bay Regional Park District; and the University of California at Berkeley to restore creek corridors as natural transportation routes connecting communities east of Interstate 80 with the shoreline of San Francisco Bay via pedestrian and bicycle paths along creekside greenways (1995 Joint Watershed Goals Statement). The Friends of Baxter Creek have worked since 1997 to protect and enhance the full length of Baxter Creek. The Conservancy has helped fund successful creek restoration downstream at Booker T. Anderson, Jr. Park in Richmond in 2000 (\$45,000 to the Urban Creeks Council), and provided funding to assist in the purchase and design of restoration and public access improvements to nearby City of El Cerrito property along San Pablo Avenue (\$350,000, September 2002; \$100,000, December 2003). Additionally, the Conservancy has successfully worked with the City of Richmond on numerous Bay Trail projects, including work at Marina Bay (2000), Richmond Shipyard (2001), Rosie the Riveter National Historic Park/Richmond Waterfront (2001, 2003), and Canal Boulevard (2007, 2008).

PROJECT FINANCING

Coastal Conservancy	\$500,000
City of Richmond	\$300,000
California Natural Resources Agency- Urban Greening	\$1,600,000
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Total Project Costs	\$2,400,000

The anticipated source of the Conservancy's \$500,000 in funds will be the fiscal year 2008-09 appropriation from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, Public Resources Code § 75001 *et seq.* (Proposition 84). This funding source may be used for the protection of bays and coastal waters, including projects to protect and restore the natural habitat values of coastal waters and lands, pursuant to the Conservancy's enabling legislation, Public Resources Code § 31000 *et seq.* (Public Resources Code § 75060(b)). The restoration of riparian habitat at Baxter Creek will facilitate restoration of natural habitat values of the San Francisco Bay watershed, a coastal watershed, and is consistent with the Conservancy's statutory mission as discussed below in "Consistency with Conservancy's Enabling Legislation." Therefore, the proposed project is an appropriate use of Proposition 84 funds.

Proposition 84 also requires that for restoration projects that protect natural resources, the Conservancy assess whether the project meets at least one of the criteria specified in Section 75071(a)-(e). The proposed restoration project satisfies two of the specified criteria, (b) and (e), in that it contributes to the long-term protection of the water and biological quality of the stream

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resources leading to San Francisco Bay, a priority watershed of a major biological region of the state, and includes non-state matching contributions toward the restoration costs provided by the City of Richmond and in-kind donations by local project proponents.

The City is actively engaged in fundraising for the remainder of the Miraflores Housing Project and construction of the project will proceed in phases with independent utility, such that habitat and other improvements will be beneficial even in the event of delays in implementation of the full project.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project would be undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resource Code Sections 31160-31165, which states that the Conservancy may award grants in the nine-county San Francisco Bay Area to help achieve the goals of the San Francisco Bay Area Conservancy Program. The proposed project is located in Contra Costa County, one of the nine San Francisco Bay Area counties. The following goals of the San Francisco Bay Area Conservancy Program are achieved by this proposed project:

Section 31162(b), authorizes the Conservancy to award grants to "protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional importance." This project entails the restoration and enhancement of riparian habitats of the San Francisco Bay Area and is consistent with the restoration and enhancement of natural habitats.

Section 31162(a), authorizes the Conservancy to award grants to "improve public access to, within, and around the bay, coast, ridgetops, and urban open spaces, consistent with the rights of private property owners and without having significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife through completion and operation of regional bay, coast, water, and ridge trails systems...". This Project includes the construction of a small pedestrian bridge over Baxter Creek that will link to the planned Bay Trail. This will increase public access to both the creek and the other areas of greenbelt within the project.

Section 31162(d), authorizes the Conservancy to award grants to "promote, assist, and enhance projects that provide open space and natural areas that area accessible to urban populations for recreational and educational purposes." This project would enhance a natural area that will be easily accessible by the residents of the City of Richmond and nearby communities for recreational and educational purposes.

The proposed project satisfies all of the criteria for determining project priority under Section 31163(c) as follows: 1) the proposed Project is supported by adopted regional plans including the San Francisco Bay Basin Water Quality Control Plan, the Association of Bay Area Governments' (ABAG) FOCUS Priority Development Areas, and Bay Area Air Quality Management District air quality goals, as well as the City of Richmond's General Plan, Zoning Code, Redevelopment Plan, and Bicycle and Pedestrian Plan; 2) the proposed project serves a regional constituency by creating habitat and promoting public access serving major regional trails; 3) the proposed project can be implemented in a timely manner; and 4) the proposed project will include matching funds from the City.

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CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 10, Objective F**, the Project will restore 4 acres of upland habitat within the nine Bay Area counties.

Consistent with **Goal 10, Objective H**, the Project will restore or enhance approximately 750 linear feet of riparian or riverine habitat throughout the nine Bay Area counties.

Consistent with **Goal 11, Objective B**, the Project will provide recreational facilities such as pedestrian trails, crossings, and bikeways.

Consistent with **Goal 11 Objective I**, the Project will construct regionally significant public trails and community connectors including links between regional trails and urban communities

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted November 10, 2011, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** The Project has a broad base of support from several public agencies, such as ABAG, the Bay Conservation and Development Commission (BCDC), and the CA Resources Agency, as well as non-profit and civic organizations such as the Miraflores Resident Advisory Committee, Groundwork Richmond, and Friends of Baxter Creek, elected officials and individuals, including the extensive involvement and support of local neighborhood associations, historic preservation groups, environmental justice organizations, technical experts, and the general public. See project letters in Exhibit 5.
4. **Location:** The Project is located in the City of Richmond in Contra Costa County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** The Conservancy has a long and valued partnership with the City in providing grant funds for acquisition, capital improvement and restoration projects. Conservancy funds provide the flexibility to address the full suite of project funding needs, such as water control structures, which provides a critical implementation step to realizing the restoration of Baxter Creek. Without the requested grant funds, the City would not be able to proceed with the proposed project until 2014 due to the long lead-time required, comparative inflexibility and procedural requirements of other grant programs.
6. **Greater-than-local interest:** The restoration of riparian habitat, and improvements to public access within a project that educates about World War II and Japanese American history, is of regional significance.

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7. **Sea level rise vulnerability:** The Miraflores Housing Development project site including its proposed 4.0 acre greenbelt project site is not in the 100- or the 500 year floodplain. The site is located approximately 4 miles from the Pacific Ocean and 1.5 miles from the San Francisco Bay at an average site elevation of approximately 55 feet above sea level. EIR analysis of potential flooding impacts concluded that once the creek channel is restored and recommended mitigation measures are implemented there should be less than significant risk of impacts from flooding. Creek restoration efforts proposed are meant to be sustainable for generations, increasing channel capacity and providing the overall project site with better storm drainage and flood protection. As a result, the project is not considered vulnerable to impacts as a result of sea level rise.

Additional Criteria

8. **Urgency:** Failure to implement the Project in the near future will mean not providing riparian habitat and public access at the site. Implementing the project will also build on existing momentum created by the City, the local consulting firm Restoration Design Group, and the Conservancy, for restoration of riparian habitat in the Baxter Creek Watershed, making full use of efforts to date.
9. **Leverage:** See the “Project Financing” section above.
10. **Readiness:** The Project is scheduled to be constructed in Fall 2014 provided the necessary funding can be obtained.
11. **Cooperation:** The conceptual plan for restoring the site was developed with significant input from many organizations, including the CA Natural Resources Agency, BCDC, and ABAG.
12. **Vulnerability from climate change impacts other than sea level rise:** Seniors and youth are more susceptible to environmental stressors, including heat and poor air quality—two stressors called out in AB 32 and associated with climate change. The proposed greenbelt will alleviate potential climate change vulnerabilities by providing increased tree canopy and establish a "cool island," which will be especially meaningful to the community's youth and those living in the Miraflores affordable senior housing. The greenbelt's urban forest will further enhance air quality, reducing exposure to asthma triggers in an area known to have a high incidence of asthma and other respiratory conditions.
13. **Minimization of Greenhouse Gas Emissions:** The greenbelt will directly and indirectly reduce greenhouse gas (GHG) emissions. Each of the 300 trees in the urban forest will reduce carbon dioxide from the atmosphere. The Tree Benefits Estimator provided by the American Public Power Associates estimates that these trees at maturity will sequester nearly 83 tons of CO₂ equivalent (CO₂e) per year.

Moreover, the greenbelt also reduces GHG emissions by establishing an important bicycle and pedestrian pathway, opening community-serving retail, recreational, and commuting trails to residents and others. The pathways will directly support the LEED-certified Miraflores housing development. It is conservatively estimated that the presence of the pedestrian and bicycle lanes will reduce Miraflores' carbon footprint by at least 2.5% annually, or 52 tons of CO₂e annually.

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COMPLIANCE WITH CEQA:

An Environmental Impact Report (EIR) was completed for the Miraflores Housing Development Plan and certified by the Richmond City Council on December 15, 2009. An addendum to the EIR modifying remediation activities on the site was further reviewed and approved by the Richmond City Council on July 19, 2011 (see Exhibit 4).

Comments received during the EIR review period focused on a number of elements pertaining mostly to the housing development portion of the project, including concerns about building height, municipal servicing, lighting, streets, traffic and parking, ingress and egress to the site. Concerns relevant to the restoration project included dealing appropriately with historic structures and their cultural significance, providing connections to the Richmond greenway, air quality and noise, and site remediation.

The City analyzed a wide range of potential impact areas and concluded that the overall project would result in no potential for significant impacts except with regard to the following areas: Air Quality; Biological Resources; Cultural Resources; Geology, Seismicity and Soils; Hydrology and Water Quality; and Noise. Of these, the EIR identifies feasible mitigation measures that would reduce potentially significant impacts to a less-than-significant level, except for the impact to cultural resources discussed below. For each issue area, the anticipated environmental effect of the Project and the mitigation measures required by the EIR for each effect are described below (see Exhibit 4 for greater detail):

Air Quality:

Effects to air quality associated with the Project would include those arising from the operation of machinery to remediate the Project site and to construct the improvements associated with the Project. The EIR requires the following mitigation measures to reduce, avoid or offset these impacts:

- Control measures for remediation and construction-related emissions, including covering of trucks, site watering, cleaning and dust control measures,
- Removal of hazardous onsite materials (asbestos, lead, etc.) in accordance with applicable standards,
- Limits on grading, excavation, demolition and other dust-producing activities,
- Signage, speed limits, idling limits, appropriate staging, carpooling, and associated vehicle maintenance measures.

Biological Resources:

Effects to biological resources associated with the Project could include impacts to jurisdictional wetlands as a result of restoration work planned that, when complete, would provide overall benefits to wetlands and biological resources. As a result, the EIR requires the following mitigation measure:

- Required permit certification for any grading impacting creeks from applicable entities including the San Francisco Bay Regional Water Quality Control Board, Army Corps of Engineers, and California Department of Fish and Game.

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Cultural Resources:

Effects to cultural resources associated with the Project include loss of historically and culturally significant features through the demolition of historic structures associated with the former flower nurseries. In addition, effects could result from construction-related disturbance of undiscovered Native American or paleontological resources on site. As a result, the EIR requires the following measures:

- Preservation of several of the Oishi nursery and greenhouse facilities on site, as examples of historic land use, with appropriate documentation of all buildings and landscape features and creation of a permanent interpretive historical exhibit. These measures would reduce impacts, but not to a less-than-significant level, due to the fact that demolition of some of the significant structures onsite would still occur,
- Upon discovery of any archaeological or paleontological resources during remediation and/or construction, halting of all project activities and consultation with appropriate archeological, paleontological, historical preservation and/or health and safety authorities.

Geology, Seismicity and Soils:

Effects to geology, seismicity and/or soils associated with the Project could include problems with undocumented fill, shallow groundwater and/or expansive soils, which could impact trenchwork, building foundations and concrete paving, and/or damage underground construction or construction equipment. As a result, the EIR requires the following:

- Site grading and preparation measures designed to address issues of shallow groundwater and undocumented fill, including removal of vegetation, scarifying, use of thin lifts, and testing of fill quality, soil density and compaction qualities,
- Stabilization measures in case of groundwater proximity, including placement of rock, fabric or lime treatments, dewatering options, and/or limits to excavation,
- Use of high quality of foundation materials and proper sub-grade preparations.

Hydrology and Water Quality:

Effects to hydrology and water quality associated with the Project could include the potential for erosion or flooding, as a result of restoration activities that alter site hydrology. These could result in violations of water quality standards or water discharge requirements, as well as flooding damage to structures. As a result, the EIR requires the following measures:

- Creek restoration design measures to reduce potential for erosion, including use of hydrologic flood modeling in creek design, bank steepness limits, native planting guidelines, use of soil bioengineering,
- Use of a wide floodplain to allow adequate flow capacity, bank stabilization measures, erosion-proof landscaping, placement of floodwalls and berms to increase channel storage.

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Noise:

Noise effects associated with the Project could occur from the operation of construction or remediation-related equipment, potentially resulting in exceedance of noise ordinance standards. As a result, the EIR requires the following:

- Preparation of a noise monitoring plan that compares noise levels to established limits, compliance with all noise standards for construction and remediation activity, use of mufflers and other noise suppression technologies, location of noise generating equipment at a distance from sensitive receptors, coordination of timing of equipment use, and use of a “disturbance coordinator” to assess and address complaints.

The City concluded that, with the implementation of the mitigation measures identified above, all potential impacts of the project would be reduced to a level of insignificance, with the exception of the impact of the project on cultural resources, to the extent that there would be a loss of historically and culturally significant features, as identified above. The Conservancy, in focusing on implementation of the greenbelt and stream restoration elements of the larger redevelopment project, is only funding work on a portion of the overall project site that was considered in the EIR – only a portion of the historic structures that cannot be retained on site are located within the project footprint of the Conservancy’s proposed project. Up to two historic greenhouses and a historic home will be retained, renovated and interpreted within the greenbelt portion of the project. In consideration of the full project, the City concluded that even with these measures a significant impact to cultural resources would occur. In approving the EIR for the overall Miraflores Housing Development Plan, the City made findings that specific economic, legal, social, technological or other benefits of the project outweighed these unavoidable significant effects of the project.

Statement Of Overriding Considerations

In the event a project has unavoidable significant potential effect, CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project (See 14 Cal. Code of Regulations, Section 15093). If the specific project benefits outweigh the unavoidable adverse environmental effects of the project, a Statement of Overriding Consideration may be adopted and the project approved, despite its adverse environmental effects.

In light of the unavoidable effect of the overall Miraflores Housing project on cultural resources, the City adopted a Statement of Overriding Consideration in certifying the EIR and approving the project on December 15, 2009. The Statement was based on the following specified economic, legal, social, technological, and other benefits of the overall Miraflores Housing project: provision of a mix of needed affordable and market-rate housing near transit opportunities; provision of approximately four acres of maintained open space and a park; restoration of a portion of Baxter Creek providing recreational space and a trail along the creek corridor; rehabilitation and reuse of five historical resources on site and provision of an interpretive exhibit regarding the site’s history and cultural value; remediation of site soil contamination; and creation of living wage jobs in connection with site preparation and construction.

In order to approve the Project, as a responsible agency, the Conservancy must, likewise, adopt

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findings that its underlying Project has benefits that outweigh the unavoidable environmental effects on cultural resources. In this case, Conservancy staff has concluded that the overall environmental and public access benefits of the proposed Project warrant the Conservancy's decision to approve the Project even though not all effects of the Project on cultural resources are fully avoided or reduced. In particular, staff believes that the positive effect of the Project on water quality and biological resources and the enhancement of recreational and public access opportunities of the Project, as described in the "Project Summary" section, above, and detailed in the EIR, outweigh and render acceptable the unavoidable adverse environmental effect on cultural resources. This is because the Project will result in the long-term environmental benefits of restoring native habitat, providing open space, restoring creek and watershed function, and improving community accessibility at the same time as preserving on the Project area some of the historic facilities and providing associated interpretation of the cultural resources of the site. These positive effects of the Project would not likely be otherwise realized, absent the larger Miraflores project. Further, as the EIR discusses in detail and as separately analyzed, the overall Miraflores project would not be feasible if all the creekside structures were retained. Likewise, the full restoration and daylighting of the creek would be severely constrained, given the proximity of the creek to some of the existing structures, and it would require far greater and not currently available funding to retain, move and restore all of the creekside historic structures.

For these reasons, and due to its independent analysis of the City's EIR, the Conservancy staff recommends that the Conservancy, as a responsible agency, find that its proposed project, as mitigated, avoids or reduces to less than significant all potentially significant environmental effects, except for effects related to cultural resources. With respect to these potential unavoidable effects, Conservancy staff recommends that the Conservancy find that the specific environmental, water quality, recreational and public access benefits of the Project outweigh the unmitigated or unavoidable environmental effects of the project, thereby warranting Project approval.

Upon Conservancy approval of the Project, Conservancy staff will file a Notice of Determination for the Project.